# **INDEX OF EXHIBITS**

Exhibit A - Complaints

Exhibit B – Plaintiff's motion for injunctive relief

**Exhibit C** – CMS, Liability Insurance (Including Self-Insurance): Exposure, Ingestion, and Implantation Issues and December 5, 1980, dated 8/19/14

Exhibit D – Defendants' response to plaintiff's motion for injunctive relief

Kitch Drutchas
Wagner Valitutti 8
Sherbrook
ATTORNEYS AND
COUNSELORS
ONE WOODWARD A VENUE

(313) 965-7900

# **EXHIBIT A**

# LAW OFFICES MICHAEL B. SERLING, P.C. 200 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009 (248) 647-6966

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CAROL BEATTY, Personal Representative for the Estate of EARL T. BEATTY, Deceased

Plaintiff,

ASBESTOS DOCKET
Case No: -NP(a)
HON. PATRICIA FRESARD

VS.

ACME INSULATION, a Michigan Corporation:

ADIENCE, INC..

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Bondstrand, Ltd.;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

BEHLER-YOUNG CO.,

a Michigan Corporation;

THE BOOMER COMPANY,

a Michigan Corporation;

BRYAN STEAM CORPORATION,

a New Mexico Corporation;

BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

BURNHAM LLC.

a Delaware Coproration, f/k/a Burnham Corporation;

BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

CARVER PUMP CO.,

a Delaware Corporation;

CHAMPLAIN CABLE CORPORATION,

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

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**CLEAVER BROOKS COMPANY,** a Pennsylvania Corporation; **CLOW CORPORATION,** a Delaware Corporation; CROSBY VALVE, LLC, a Nevada Corporation; DAUBERT CHEMICAL COMPANY, INC., an Illinois Corporation; **DURAMETALLIC CORPORATION,** a Michigan Corporation; **EVERLASTING VALVE CO.,** a Michigan Corporation; **EVERT ASBESTOS INSULATING COMPANY,** a Michigan Corporation; F.L. SMIDTH DORR-OLIVER EIMCO INC., a Delaware Corporation; FORD MOTOR COMPANY, a Delaware Corporation; GOODALL RUBBER COMPANY, a New Jersey Corporation; GOODRICH CORPORATION, f/k/a B.F. Goodrich Company a New York Corporation; GOODYEAR TIRE & RUBBER COMPANY, an Ohio Corporation; THE GORMAN-RUPP COMPANY, an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company; GREENE, TWEED & COMPANY, a Pennsylvania Corporation; GRINNELL LLC, a Delaware Corporation; HARRISON PIPING SUPPLY COMPANY, a Michigan Corporation; IU NORTH AMERICA, INC., a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering; J-M MANUFACTURING COMPANY, INC., a Delaware Corporation; JOHN E. GREEN COMPANY, a Michigan Corporation; JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in

interest to Luxaire, Inc., Moncrief Furnace, The Henry

Furnace Company, Fraser-Johnston, Coleman Furnace;

LAW OFFICES
MICHAEL B. SERLING, P.C.
220 M, OLD WOODWARD AVE
SUITE 496
BIRMINGHAM, MI 49009

(248) 617-6966

K & C SUPPLY, INC., an Ohio Corporation; O.C. KECKLEY COMPANY, an Illinois Corporation; KERR PUMP AND SUPPLY, INC., a Michigan Corporation; LENNOX INDUSTRIES, INC., an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace; THE MARLEY-WYLAIN COMPANY, a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company, Peck and Williamson Heating and Ventilating Company, International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company, Williamson Heater Company, MCWANE, INC., a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump; MIDLAND ROSS CORPORATION, an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion; MW CUSTOM PAPERS, LLC, a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation; NAGLE PUMPS, INC., an Ohio Corporation; NETZSCH PUMPS NORTH AMERICA, LLC, a Delaware Corporation; NIBCO, INC.. an Indiana Corporation; PFAUDLER, INC. a Delaware Corporation; POWER PROCESS PIPING, INC., a Michigan Corporation: RADIATOR SPECIALTY COMPANY, a North Carolina Corporation; RIC-WIL, INC., an Ohio Corporation;

ROGER ZATKOFF COMPANY,

a Michigan Corporation;

ROPER PUMP COMPANY, a Delaware Corporation;

LAW OFFICES
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BIRMINGHAM. MI 48009
(245) 647-8966

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ROTH PUMP COMPANY, a Delaware Corporation; RUTHMAN PUMP & ENGINEERING, INC., an Ohio Corporation, a/k/a Gusher Pumps, Inc.; SATTERLUND SUPPLY COMPANY, a Michigan Corporation; SCHAD BOILER SETTING COMPANY, d/b/a Schad Refractory Construction Co., a Michigan Corporation; SEALITE, INC., a California Corporation; STANDARD FUEL ENGINEERING COMPANY, a Michigan Corporation; STANDCO INDUSTRIES, INC., a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.; THE STANLEY-CARTER COMPANY, a Michigan Corporation: SULZER PUMPS (US) INC., a Delaware Corporation, f/k/a The Austin Company; TA COMPANY, an Ohio Corporation: TACO, INC., a Rhode Island Corporation; TATE ANDALE, INC., a Maryland Corporation, in its own right and successor in interest to Andale Valves; THERMON, INC., a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company; TKD, INC., a California Corporation, in its own right and as successor in interest to Johnston Pump Company, TRANS-PUMPS, INC., a Pennsylvania Corporation, a/k/a Hazelton Pumps; TUTHILL CORPORATION, a Delaware Corporation; UNIROYAL, INC., a/k/a United States Rubber Co., Inc., a New Jersey Corporation; VIKING PUMP, INC., a Delaware Corporation;

LAW OFFICES
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SUITE 404
BURMINGHAM, MI 48009

(241) 647-6966

WATTS WATER TECHNOLOGIES, INC., a Delaware Corporation;

WEIL PUMP COMPANY,

-- 111:--:- C-----:

an Illinois Corporation;

WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

#### YORK INTERNATIONAL CORPORATION.

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace; YORK RUBBER COMPANY, a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT IN WRONGFUL DEATH CASE COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16L001549 and Judge Stephen Stobbs is assigned to the action.

NOW COMES Plaintiff by and through his attorneys, SERLING & ABRAMSON, P.C. and for his Complaint against each Defendant, states as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
- Pursuant to the Court's Case Management Order of November 21,
   Plaintiff, CAROL BEATTY, Personal Representative for the Estate of EARL T.
   BEATTY, Deceased, states as follows:

LAW OFFICES
MICHAEL B. SERLING, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BERMINGHAM, MI 48009

(245) 647-4946

Deceased Plaintiff:

Earl T. Beatty

Decedent's Date of Birth:

January 27, 1938

Decedent's Date of Death;

February 2, 2019

Personal Representative:

Carol Beatty

Per. Rep.'s Birth Date:

July 22, 1939

Personal Representative's Address:

3898 E. Herrick Clare, MI 48617

Spouse of Decedent:

Carol Beatty

Spouse's Date of Birth:

July 22, 1939

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

September 20, 2016

Decedent's Period of Exposure to

Asbestos:

1966-1995 - subject to further

discovery

Decedent's Occupation:

Boiler House Operator, Pipecoverer,

Pipefitter

Employer(s):

**Dow Chemical** 

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

(check one) Yes \_\_\_\_

No X (has been ordered)

Geographical Situs of Asbestos

Exposure:

LAW OFFICES MICHAEL B. SERLING, P.C. AN OLD WOODWARD AVE.

> SUITE 406 BIRMINGHAM, MI 48009

> > (248) 647-4966

Wayne County, Michigan

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

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ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED:

May 6, 2020

LAW OFFICES
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(248) 647-4966

# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# **KNOWN JOB SITES**

YEARS AT JOB SITES

**Dow Chemical** 

1966-1995

LAW OFFICES
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BIRMINGHAM, MI 48009

C451 647-6966

# ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

**BONDEX** 

**BURNS & ROE** 

**CELOTEX CORPORATION** 

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

**FLEXITALLIC GASKET** 

**FLINTKOTE** 

**GAF CORPORATION** 

GARLOCK

GARLUCK

**GEORGIA PACIFIC** 

H.K. PORTER

II.K. FORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

IGI.

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

LAW OFFICES

MICHAEL B. SERLING, P.C.

280 N. OLD WOODWARD AVE. SUITE 406

This list may be incomplete and is subject to change as discovery is ongoing.

SAComplainte DEADLINES 12019 July-Dec BEATTY, Earl SWPF dock

#### **ATTACHMENT "C"**

All reasonably known medical information is as follows:

Mid Michigan Medical Center 4000 Wellness Dr. Midland, MI

Biopsy

University of Michigan Health System

1011 Cornwell Place Ann Arbor, MI

**Current Treatment** 

Dr. David Bremer 212 W. 6th St. Clare, MI

**General Practitioner** 

Dr. Steven Gellman 602 Beech ST. #1230 Clare, MI

Cardiologist

Dr. Robert Jones 4011 Orchard Place #3004

Midland, MI

Thoracic Surgeon

LAW OFFICES MICHAEL B. SERLING, P.C. 280 N. OLD WOODWARD AVE. SUTTE 406 BIRMINGHAM, MI 48009 (248) 647-6964

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY L. BARBER, Deceased

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### **ACME INSULATION,**

a Michigan Corporation;

#### ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### **ALLISON TRANSMISSION, INC.**

a Delaware Corporation

# AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Bondstrand, Ltd.;

#### ARVINMERITOR, INC.

a Delaware Corporation

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### **BECHTEL CORPORATION**

a Nevada Corporation;

#### **BEHLER-YOUNG CO.,**

a Michigan Corporation;

# THE BOOMER COMPANY,

a Michigan Corporation;

#### BRYAN STEAM CORPORATION,

a New Mexico Corporation;

#### **BRYAN STEAM, LLC,**

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

#### **BURNHAM LLC,**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

# CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### CARLISLE COMPANIES, INC.

a Delaware Corporation

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BIRMINGHAM, MI 48009

#### **CARVER PUMP CO.,**

a Delaware Corporation;

# CATERPILLER, INC.

a Delaware Corporation

#### CHERNE CONTRACTING CORPORATION

a Delaware Corporation;

# **CLEAVER BROOKS COMPANY,**

a Pennsylvania Corporation;

# **CLOW CORPORATION,**

a Delaware Corporation;

# CNH INDUSTRIAL AMERICA LLC

a Delaware Corporation, in its own right and as successor by merger of Case Corporation and New Holland N.V.

# CROSBY VALVE, LLC,

a Nevada Corporation;

# **CUMMINS, INC.**

an Indiana Corporation

# DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

# **DEERE & COMPANY**

a Delaware Corporation

# DURAMETALLIC CORPORATION,

a Michigan Corporation;

# ELECTROLUX HOME PRODUCTS, INC.

a Delaware Corporation

# **ESCON GROUP, INC.**

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric;

#### **EVERLASTING VALVE CO.,**

a Michigan Corporation;

# F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

# FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

# **FMC CORPORATION**

a Delaware Corporation, in its own right and as successor in interest to Link-Belt Construction

#### FORD MOTOR COMPANY,

a Delaware Corporation;

# GOODALL RUBBER COMPANY,

a New Jersey Corporation;

# GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation:

# GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

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BIRMINGHAM, MI 48009

#### THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

# **GRADALL INDUSTRIES, INC.**

a Delaware Corporation

# GREENE, TWEED & COMPANY,

a Pennsylvania Corporation;

# **GUSMER ENTERPRISES, INC.**

a New Jersey Corporation, in its own right and as successor in interest to The Cellulo Company, Filter Materials, Inc. and A. Gusmer, Inc.;

# HARLAN ELECTRIC COMPANY

a Michigan Corporation;

# HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

# HENNESSY INDUSTRIES, INC.

a Delaware Corporation, in its own right and as successor in interest to AMMCO Tools

#### HERLIHY MID-CONTINENT COMPANY

an Illinois Corporation;

# IMO INDUSTRIES, INC.,

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

# IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

# J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

# JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

# K & C SUPPLY, INC.,

an Ohio Corporation;

# O.C. KECKLEY COMPANY,

an Illinois Corporation;

#### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

# **KOMATSU AMERICA Corp**

a Georgia Corporation

# KOMATSU MINING CORP.

a Delaware Corporation

# LENNOX INDUSTRIES, INC.,

an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace;

LAW OFFICES
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SUITE 406
BIRMINGHAM, MI 48009

#### THE MARLEY-WYLAIN COMPANY.

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

#### MCCORD CORPORATION F/K/A MCCORD GASKET COMPANY

a Michigan Corporation

# MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

# MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

# NAGLE PUMPS, INC.,

an Ohio Corporation;

# THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

#### NAVISTAR, INC.

a Delaware Corporation, in its own right and as successor in interest to International Harvester Company and International Truck and Engine Corporation

# NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation;

# PFAUDLER, INC.

a Delaware Corporation;

# PNEUMO ABEX CORPORATION

a Delaware Corporation, f/k/a Abex Corporation

# POWER PROCESS PIPING, INC.,

a Michigan Corporation;

# RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

# RIC-WIL, INC.,

an Ohio Corporation;

# ROGER ZATKOFF COMPANY,

a Michigan Corporation;

# ROPER PUMP COMPANY,

a Delaware Corporation;

# ROTH PUMP COMPANY,

a Delaware Corporation;

# RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

# SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

# SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### SEALITE, INC.,

a California Corporation;

#### **SPENCE BROTHERS**

a Michigan Corporation;

# STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

# STONE & WEBSTER, INC.

a Louisiana Corporation;

# SULZER PUMPS (US) INC.,

a Delaware Corporation;

# **TA COMPANY**

an Ohio Corporation, f/k/a The Austin Company

# TACO, INC.,

a Rhode Island Corporation;

# TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

# TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

# TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### TUTHILL CORPORATION.

a Delaware Corporation;

# TWIN DISC, INCORPORATED

a Wisconsin Corporation

# UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

# VIKING PUMP, INC.,

a Delaware Corporation;

# VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA, LLC

a Delaware Corporation, in its own right and as successor in interest to Blaw Knox

# WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

#### WEIL PUMP COMPANY,

an Illinois Corporation;

# WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

# WELTON RUBBER COMPANY,

a Michigan Corporation, formerly known as Welton Rubber

& Asbestos Company;

LAW OFFICES
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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### WHITE CONSOLIDATED INDUSTRIES, INC.

a Delaware Corporation, in its own right and as successor in interest to American Chain & Cable Company, Inc. and Schade Valve Manufacturing Co.

THE WILLIAM POWELL COMPANY,

an Ohio Corporation;

YORK RUBBER COMPANY,

a Michigan Corporation;

# YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 000312 and Judge Stephen Stobbs is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
  - 2. Pursuant to the Court's Case Management Order of June 24, 2016,

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# Plaintiff, LANA BARBER Personal Representative for the Estate of LARRY L.

**BARBER, Deceased** states as follows:

Deceased Plaintiff: Larry L. Barber

Decedent's Date of Birth: February 1, 1943

Decedent's Date of Death: February 7, 2016

Lana Barber Personal Representative:

Per. Rep.'s Birth Date: March 28, 1946

Personal Representative's Address: 2125 E. Surrey Rd.

Farwell, MI 48622

Spouse of Decedent: Lana Barber

Spouse's Date of Birth: March 28, 1946

Disease: Mesothelioma

Date of Decedent's Diagnosis: January 4, 2016

Decedent's Period of Exposure to

Asbestos: 1966-1968 (U.S. Navy); 1964-1966,

1968-2001 – subject to further

discovery

Decedent's Occupation: Heavy Equipment Field Operator;

Laborer; Lab Analyst; Operator;

Insulator; Pipecoverer

Employer(s): Pat's Gradall; Dow Chemical

Known Job Sites and Years at Job

Sites: See Attachment "A"

Identity of all Known Non-Parties: See Attachment "B"

Reasonably Known Medical

Information: See Attachment "C"

Social Security Printout included: No

(check one) Yes \_\_\_\_ No  $\underline{X}$  (has been ordered)

BIRMINGHAM, MI 48009 (248) 647-6966

LAW OFFICES SERLING & ABRAMSON, P.C.

280 N. OLD WOODWARD AVE. SUITE 406

Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** May 28, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# **KNOWN JOB SITES**

# **YEARS AT JOB SITES**

Pat's Gradall 1964-1966

United States Navy 1966-1968

Dow Chemical 1966, 1968-1987

LAW OFFICES
SERLING & ABRAMSON, P.C.
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SUITE 406
BIRMINGHAM, MI 48009

#### **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

ASARCO

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

TURNER & NEWALL

**UGL** 

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

LAW OFFICES

SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE.

SUITE 406

This list may be incomplete and is subject to change as discovery is ongoing. S:\Complaints\DEADLINES\2019 July-Dec\BARBER, Larry SWLPfdocx

# **ATTACHMENT "C"**

All reasonably known medical information is as follows:

MidMichigan Medical Center 4000 Wellness Drive Midland, Michigan 48670 (989) 839-3000

May 6,2015 Cytology: Pleural Fluid

Reactive Mesothelial Cells

January 4, 2016 Biopsy: diagnosed with

Mesothelioma

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#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY L. BARBER, Deceased

Plaintiff,

**ASBESTOS DOCKET** 

Case No: -NP(a)HON. PATRICIA FRESARD

VS.

**ACME INSULATION, et al** 

Defendants.

ERIC B. ABRAMSON (P60949) **SERLING & ABRAMSON, P.C. Attorney for Plaintiffs** 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

**ALL ISSUES.** 

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) **Attorney for Plaintiff** 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** May 28, 2020

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

NICHOLAS KACHMAN and ISABEL KACHMAN

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### AFC-HOLCROFT, L.L.C.,

a Michigan Corporation, in its own right and as successor in interest to Holcroft and Pacific Industrial Furnace Company (PIFCO)

#### ARMSTRONG PUMPS, INC.,

a New York Corporation;

# AVOCET ENTERPRISES, INC.,

f/k/a Ventfabrics, Inc., an Illinois Corporation;

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BEAZER EAST, INC.,

a Delaware Corporation in its own right and as successor in interest to Koppers Company, Inc., and as parent corporation to subsidiary, Thiem Corporation;

#### THE BOOMER COMPANY,

a Michigan Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

#### CLEAVER BROOKS COMPANY,

a Pennsylvania Corporation;

#### COLUMBUS MCKINNON CORP,

a New York Corporation, in its own right and as Successor in Interest to Lift-Tech International, Inc. (Shaw-Box);

#### **COOPER INDUSTRIES LLC,**

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation

# COPES-VULCAN,

a Delaware Corporation;

# DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

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BIRMINGHAM, MI 48009

#### DEZURIK, INC.,

a Delaware Corporation;

#### DOW CHEMICAL DELAWARE CORPORATION,

a Delaware Corporation;

# THE DOW CHEMICAL COMPANY,

a Delaware Corporation;

# **DURAMETALLIC CORPORATION,**

a Michigan Corporation;

# EVERLASTING VALVE CO.,

a Michigan Corporation;

#### F.B. WRIGHT COMPANY,

a Michigan Corporation;

# FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

# FOSECO, INC.,

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

# GARDNER DENVER, INC.,

a Delaware Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

# GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

# GREENE, TWEED & COMPANY,

a Pennsylvania Corporation;

#### **IU NORTH AMERICA, INC.,**

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### JOHN CRANE, INC.,

a Delaware Corporation, f/k/a Crane Packing Company;

# JOHN E. GREEN COMPANY,

a Michigan Corporation;

# JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### JOY GLOBAL SURFACE MINING, INC.,

a Delaware Corporation, in its own right and as successor in inerest to P&H Material Handling, P&H Minepro Services, P&H Mining Equipment, Harnischfeger Corporation;

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#### K & C SUPPLY, INC.,

an Ohio Corporation;

# MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion:

# **NEW COLEMAN HOLDINGS, INC.,**

a Kansas Corporation

# PARKER-HANNIFIN CORPORATION,

an Ohio Corporation, as parent corporation of Parker Packing Division;

# POWER PROCESS PIPING, INC.,

a Michigan Corporation;

# RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

# **REUNION INDUSTRIES, INC.,**

a Delaware Corporation;

# **REX/ROTO CORPORATION,**

a Michigan Corporation;

# ROGER ZATKOFF COMPANY,

a Michigan Corporation;

# RUST INTERNATIONAL, INC.,

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

# THE SAGER CORPORATION,

an Illinois Corporation, in its own right and as successor in interest to The Sager Glove Corporation;

# SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

# SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

# SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

# SIEMENS CORPORATION,

a Delaware Corporation, in its own right and as Successor in Interest to ITE Electrical Products Company and Terry Turbine;

#### SINGER SAFETY COMPANY,

an Illinois Corporation;

# STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

# THERMO FISHER SCIENTIFIC INC.,

a Delaware Corporation, f/k/a Thermo Electron Corp., in its own right & as successor in interest to Thermo Therra Tech Company, f/k/a Thermoprocess Systems Inc., in its own right & as successor in interest to Holcroft/Loftis & Holcroft, a Delaware Corporation;

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#### UNION PUMPS COMPANY,

f/k/a David Brown Union Pump Company, a Michigan Corporation;

UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

WARREN PUMPS, LLC,

a Delaware Corporation;

YORK RUBBER COMPANY,

a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the Count of Cook, Illinois. The action is still pending. The docket number is 17 L 012857 and Judge Clare E. McWilliams is assigned to the action.

NOW COME Plaintiffs, by and through their Attorneys, SERLING & ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Living Plaintiff and Spouse," Standard Pleading No. 11. Plaintiffs adopt by reference each and every allegation in this Master Complaint.

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	2. Pursuant to the Court's Case	Management Order of June 24, 2016,
Plaintiffs,	NICHOLAS KACHMAN and ISAB	ELL KACHMAN, his wife, state as
follows:		
	Living Plaintiff:	Nicholas Kachman
	Plaintiff's Date of Birth:	September 7, 1929
	Plaintiffs' Residence:	283 McMillan Rd. Grosse Pointe Farms, MI 48236
	Spouse:	Isabel Kachman
	Spouse's Date of Birth:	December 28, 1930
	Disease:	Mesothelioma
	Date of Diagnosis:	August 25, 2017
	Period of Exposure to Asbestos:	1929-1947 (exposure through father); 1942-1949, 1953-1993 – subject to further discovery
	Occupation:	Tool & Die; Various Engineering positions
	Employer:	Beaver Tool & Die; Gabriel Steel; General Motors Corporation
	Known Job Sites and Years at Job Sites:	See Attachment "A"
	Identity of all Known Non-Parties:	See Attachment "B"
	Reasonably Known Medical Information:	See Attachment "C"
	Social Security Printout included: (check one) Yes No	No $\underline{X}$ (has been ordered)
	Geographical Situs of Asbestos	

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(248) 647-6966

Exposure: Wayne County, Michigan

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** April 24, 2020

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# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

KNOWN JOB SITES	YEARS AT JOB SITES
Chrysler Corporation	1929-1947 (Exposure through father, Nicholas Kachman)
Ford Motor Company, River Rouge Plant, Dearborn, MI	1942-1946
Beaver Tool & Die	1946-1949
Gabriel Steel, Detroit, MI	1953-1957
General Motors Corporation	1957-1993

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#### **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

**THAN** 

**TURNER & NEWALL** 

**UGL** 

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

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SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE.

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This list may be incomplete and is subject to change as discovery is ongoing. C:\Users\Diane\Desktop\WORK-2020\Kachman, Nicholas SWL.docx

# ATTACHMENT "C"

All reasonably known medical information is as follows:

William Hanna MD 25869 Kelly Rd Roseville MI 48066 586-774-3780

Pulmonologist

Luis Camero MD 2581 Kelly Rd #1 Roseville MI 48066 586-777-8440

Cardiothoracic surgeon

Barbara Ann Karmanos Cancer Institute 4100 John R. St. Detroit MI 48201 Antoinette Wozniak MD 800-527-6266

Thoracic Oncologist

Beaumont Hospital 468 Cadieux Rd. Grosse Pointe MI 48230 313-473-1000

Grosse Pointe Urgent Care 20311 Mack Ave Grosse Pointe Woods MI 48236 313-499-6000

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#### STATE OF MICHIGAN

# IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARL W. HENNI and CHARLENE HENNI

ASBESTOS DOCKET
Case No:

NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

# ABITIBI CONSOLIDATED SALES CORPORATION,

a Delaware Corporation;

ACME INSULATION.

a Michigan Corporation;

ADIENCE, INC.

Successor in Interest to Adience Company, LP as Successor in

Interest to BMI, Inc., a Delaware Corporation;

THE ALLIANCE MACHINE COMPANY

a Delaware Corporation;

AMERICAN CRANE CORPORATION

a North Carolina Corporation;

# AMERICAN ELECTRIC POWER SERVICE CORPORATION

a Foreign Corporation;

AMERICAN STANDARD, INC.

a Delaware Corporation, f/k/a American Radiator and Standard

Sanitary Corporation, in its own right and as parent corporation

to American Blower Division and the Trane Company;

ARKEMA, INC.

a Pennsylvania Corporation, in its own right and as successor

in interest to Pennsalt Chemicals Corporation;

ARMSTRONG INTERNATIONAL, INC.

a Michigan Corporation;

ARMSTRONG PUMPS, INC.

a New York Corporation;

AUBURN MANUFACTURING COMPANY

a Connecticut Corporation;

A.W. CHESTERTON COMPANY

a Massachusetts Corporation;

# BALTIMORE ENNIS LAND COMPANY, INC.

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

BANNER ENGINEERING & SALES, INC.

a Michigan Corporation, a/k/a Joseph M. Day Company;

**BASE CORPORATION** 

a Delaware Corporation;

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#### BAYER CROPSCIENCE, INC.

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

#### BECHTEL CORPORATION

a Nevada Corporation;

#### THE BOOMER COMPANY

a Michigan Corporation;

# **BRYAN STEAM CORPORATION**

a New Mexico Corporation:

#### BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

#### **BURNHAM LLC**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division:

# CAMERON INTERNATIONAL CORPORATION

a Delaware Corporation;

# CARRIER CORPORATION

a Delaware Corporation, a/k/a Bryant Heating & Cooling Systems; Bryant Company, Payne Company, Affiliated Gas Equipment, Inc., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co. and Heil Furnaces;

# CARRIER CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Heil-Quaker Corporation;

# CARVER PUMP CO.

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

# CHERNE CONTRACTING CORPORATION

a Delaware Corporation;

# CLEAVER BROOKS COMPANY

a Pennsylvania Corporation;

# CLIFFS NATURAL RESOURCES INC.,

an Ohio Corporation;

NIN WALL

#### **CLOW CORPORATION**

a Delaware Corporation;

# COMBUSTION ENGINEERING

a Delaware Corporation, in its own right and as successor in interest to Combustion Engineering Refractories Division, Walsh Refractories and Refractory & Insulation Corp;

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#### COMPUDYNE CORPORATION

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

#### **COOPER INDUSTRIES LLC**

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

# CRANE CO.

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

#### CROSBY VALVE, LLC

a Nevada Corporation;

# DAUBERT CHEMICAL COMPANY, INC.

an Illinois Corporation;

#### DCO LLC

à Virginia Corporation, in its own right and as successor in interest to Dana Companies, LLC, Dana Corporation, Spraycraft, Victor Gaskets, Spicer Clutch;

# DOW CHEMICAL DELAWARE CORPORATION

a Delaware Corporation;

#### THE DOW CHEMICAL COMPANY

a Delaware Corporation:

#### **DURAMETALLIC CORPORATION**

a Michigan Corporation:

# EATON CORPORATION

an Ohio Corporation, in its own right and as successor in interest to Cutler-Hammer, Inc.;

#### EDWARD VOGT VALVE CO.

a North Carolina Corporation;

# E.I. DU PONT DE NEMOURS & COMPANY,

a Delaware Corporation;

# ELOF HANSSON USA INC.

a Delaware Corporation;

# ENTERGY NUCLEAR PALISADES, LLC

a Delaware Corporation, in its own right and as successor in interest to Palisades Power Plant;

#### ESCON GROUP, INC.

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric;

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# EVERLASTING VALVE CO.

a Michigan Corporation;

F.B. WRIGHT COMPANY

a Michigan Corporation:

F.L. SMIDTH DORR-OLIVER EIMCO INC.

a Delaware Corporation;

#### FLOWSERVE CORPORATION

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### **FMC CORPORATION**

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

#### FORD MOTOR COMPANY

a Delaware Corporation;

#### FOSEGO, INC.

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

### FOSTER WHEELER ENERGY CORPORATION

a New Jersey Corporation;

# GENERAL ELECTRIC COMPANY

a New York Corporation;

### GOODALL RUBBER COMPANY

a New Jersey Corporation:

# **GOODRICH CORPORATION**

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY

an Ohio Corporation;

### GOULDS PUMPS, INCORPORATED

a Delaware Corporation;

#### GREENE, TWEED & COMPANY

a Pennsylvania Corporation;

### GRINNELL LLC

a Delaware Corporation;

## GUSMER ENTERPRISES, INC.

a New Jersey Corporation:

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation;

## HARRISON PIPING SUPPLY COMPANY

a Michigan Corporation:

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## HONEYWELL INTERNATIONAL, INC.

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

HOWARD ELECTRIC COMPANY

a Michigan Corporation;

HYDRONIC SUPPLY & ENGINEERING, INC.

a Michigan Corporation;

IMO INDUSTRIES, INC.

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

### INDUSTRIAL HOLDINGS CORPORATION

a New York Corporation f/k/a Carborundum Corporation;

#### INGERSOLL-RAND COMPANY

a New Jersey Corporation, in its own right and as successor in interest to Blaw-Knox;

#### INTERNATIONAL PAPER COMPANY,

a New York Corporation;

#### ITT INDUSTRIES, INC.

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves;

#### IU NORTH AMERICA, INC.

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### J-M MANUFACTURING COMPANY, INC.

à Delaware Corporation;

### JOHN E. GREEN COMPANY

a Michigan Corporation;

### JOHNSON CONTROLS, INC.

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

### K & C SUPPLY, INC.

an Ohio Corporation;

K. L. McCOY AND ASSOCIATES, INC.

a Michigan Corporation;

### KELSEY HAYES COMPANY,

a Delaware Corporation;

### KERR PUMP AND SUPPLY, INC.

a Michigan Corporation:

# KIMBERLEY-CLARK GLOBAL SALES, LLC

a Delaware Corporation;

### KRONES, INC.

a Wisconsin Corporation, in its own right and as the parent company of W.M. Sprinkman, LLC;

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#### LIMBACH COMPANY LLC

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

# MARATHON PETROLEUM COMPANY LP

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

#### THE MARLEY-WYLAIN COMPANY

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

# MCMASTER-CARR SUPPLY COMPANY

an Illinois Corporation;

#### MCWANE, INC.

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

# MÉTROPOLÍTAN LIFE INSURANCE COMPANY

a/k/a Metropolitan Insurance Co. a Delaware Corporation;

# MICHIGAN VALVE AND FOUNDRY CORPORATION

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

# MIDWEST VALVE & FITTING COMPANY

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

# MORGAN ENGINEERING SYSTEMS, INC.

a Delaware Corporation;

#### MW CUSTOM PAPERS, LLC

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

### NAGLE PUMPS, INC.

an Ohio Corporation;

# THE NASH ENGINEERING COMPANY

a Connecticut Corporation;

## NEENAH PAPER, INC.,

a Delaware Corporation, in its own right and as successor in interest to Fibermark, Inc.:

# NEW COLEMAN HOLDINGS, INC.

a Kansas Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 286 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### PARKER-HANNIFIN CORPORATION

an Ohio Corporation, as parent corporation of Parker

Packing Division;

PFIZER, INC.

a Delaware Corporation;

PHARMACIA & UPJOHN LLC,

a Delaware Corporation;

PHARMACIA LLC

a Delaware Corporation, a/k/a Monsanto Chemical Company;

POWER PROCESS PIPING, INC.

a Michigan Corporation;

R. L. DEPPMANN COMPANY

a Michigan Corporation;

RADIATOR SPECIALTY COMPANY

a North Carolina Corporation;

REUNION INDUSTRIES, INC.

a Delaware Corporation;

REX/ROTO CORPORATION

a Michigan Corporation;

RIC-WIL; INC.

an Ohio Corporation;

RILEY POWER, INC.

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

ROGER ZATKOFF COMPANY

a Michigan Corporation;

ROPER PUMP COMPANY

a Delaware Corporation;

**ROTH PUMP COMPANY** 

a Delaware Corporation;

RUST INTERNATIONAL, INC.

a Delaware Corporation in its own right and as successor in

interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

RUTHMAN PUMP & ENGINEERING, INC.

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

SATTERLUND SUPPLY COMPANY

a Michigan Corporation;

SCHAD BOILER SETTING COMPANY

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

S.D. WARREN COMPANY,

a Pennsylvania Corporation;

SEAWAY MECHANICAL CONTRACTORS, INCORPORATED

a Michigan Corporation;

SHAW-WINKLER, INC.

a Michigan Corporation;

SOCONY MOBIL COMPANY, INC.

a Delaware Corporation, a/k/a Mobil Oil Corporation;

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#### SPENCE BROTHERS

a Michigan Corporation;

SQUARE D COMPANY

a Delaware Corporation;

STANDARD FUEL ENGINEERING COMPANY

a Michigan Corporation;

THE STANLEY-CARTER COMPANY

a Michigan Corporation;

STERLING FLUID SYSTEMS (USA), LLC

f/k/a Peerless Pump Company, a Delaware Corporation;

STONE & WEBSTER, INC.

a Louisiana Corporation;

SULZER PUMPS (US) INC.

a Delaware Corporation;

SUNOCO, INC (R&M)

a Pennsylvania Corporation;

TA COMPANY

an Ohio Corporation, f/k/a The Austin Company;

TACO, INC.

a Rhode Island Corporation;

THIEM CORPORATION

a/k/a Universal Refractories, Inc., a Delaware Corporation;

TRANS-PUMPS, INC.

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.

Successor in Interest to Union Carbide, a New York Corporation;

UNION PUMPS COMPANY

f/k/a David Brown Union Pump Company, a Michigan Corporation;

UNIROYAL, INC.

a/k/a United States Rubber Co., Inc., a New Jersey Corporation:

VELAN VALVE CORP.

a Delaware Corporation;

VÍACOM INTERNATIONAL, INC.

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor in Interest to Westinghouse Electric Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric & Manufacturing Company, in its own right and as Successor in Interest to Luxaire, Inc.;

VIKING PUMP, INC.

a Delaware Corporation;

W. J. O'NEIL CO.

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

W. M. SPRINKMAN, LLC

a Wisconsin Corporation;

WARREN PUMPS, LLC

a Delaware Corporation;

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SUITE 406
BIRMINGHAM, MI 48009

#### WAYNE/SCOTT FETZER COMPANY

a Delaware Corporation, f/k/a Wayne Combustion System;

#### WEC ENERGY GROUP INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Presque Isle Power Plant;

#### WEIR VALVES & CONTROLS USA, INC.

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

## WELTON RUBBER COMPANY

a Michigan Corporation, formerly known as Welton Rubber & Asbestos Company;

### WESTROCK COMPANY,

a Delaware Corporation, in its own right and as successor in interest to MeadWestvaco Corp.;

#### THE WILLIAM POWELL COMPANY

an Ohio Corporation;

### WOLVERINE POWER SUPPLY COOPERATIVE, INC.,

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

# Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT AND JURY DEMAND (WITH PREMISES LIABILITY COUNT)

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Wayne County Circuit Court. The action is no longer pending. The docket number was 87-705342-NP and Judge James E. Mies was assigned to the action.

NOW COME Plaintiffs, by and through their Attorney, SERLING &

ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

In compliance with Wayne County Circuit Court Judge Robert J.

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BIRMINGRAM, MI 48009

Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint-Living Plaintiff and Spouse," Standard Pleading No. 13. Plaintiffs adopt by reference each and every allegation in this Master Complaint.

Pursuant to the Court's Case Management Order of June 24, 2016,
 Plaintiffs, CARL W. HENNI and CHARLENE HENNI, his wife, state as follows:

PREMISES LIABILITY COUNT AS TO DEFENDANTS

ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASE CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC.

A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13.

B. That during the period 1950-1985, Plaintiff was exposed to toxic levels of environmental pollutants including asbestos fibers while in the course of his employment with various employers working on a project over which Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU

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PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC. FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC. MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., had supervision and control at a building owned by Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN Sec. 32. 3243 ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP. NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., located in the county of, including but not limited, to Wayne.

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....

C. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area of the

building in which he was exposed to asbestos containing materials.

- D. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area where asbestos containing material was used.
- E. That the work was being undertaken by the Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., through their employees and the agency of various contractors and subcontractors, including Plaintiff's employer(s), and that the work in which the Plaintiff was engaged in at the time of this occurrence was inherently dangerous work.
- F. That it was then and there the duty of the Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE

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Same Subject of the same

CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., to provide a safe place for invitees such as the Plaintiff and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.

- G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Plaintiff to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.
- H. That the Defendants, ABITIBI CONSOLIDATED SALES ELECTRIC POWER CORPORATION, AMERICAN SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD

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MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., breached their duties and were negligent in the following manner:

- (a) failed to provide adequate and proper ventilation;
- (b) failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;
- (c) failed to provide a safe place for Plaintiff to work;
- (d) failed to safely and properly operate and maintain the construction site premises;
- failed to inspect the premises for dangerous and/or hazardous conditions;
- (f) employed a careless and/or negligent general contractor;
- (g) maintained a right of control over the construction work and were negligent in their supervision and job inspection;
- (h) failed to warn Plaintiff of the dangerous and/or hazardous condition that they knew or should have known existed.
- I. That in the happening of the aforesaid incident, Plaintiff was not guilty of negligence or of contributory negligence, but as a direct and proximate result of Defendants' negligence, Plaintiff suffered harmful exposure to asbestos fibers causing and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental

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anguish, discomfort and inconvenience.

WHEREFORE, Plaintiff demands judgment against the Defendants herein for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be entitled, together with interests, costs and attorneys fees.

3. In addition to Paragraphs 1 and 2 herein, and Pursuant to the Court's Case Management Order of November 21, 2003, Plaintiffs, CARL W. HENNI and CHARLENE HENNI, his wife, state as follows:

Living Plaintiff:

Carl W. Henni

Plaintiff's Date of Birth:

December 5, 1927

Plaintiffs' Residence:

4402 Mystic Blue Highway

Ft. Myers, FL 33966

Spouse:

Charlene Henni

Spouse's Date of Birth:

September 12, 1934

Disease:

Lung Cancer

Date of Diagnosis:

October 8, 2019

Period of Exposure to Asbestos:

1950-1985 - subject to further

discovery

Occupation:

Boilermaker

Employer:

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included:

No

(check one)

Yes

No X

(has been ordered)

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Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 19, 2020

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI. 48009

#### ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

### KNOWN JOB SITES

#### YEARS AT JOB SITES

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Wyandotte Chemical, Marathon Oil Refinery, Mobil Oil Refinery, White Star Refinery, Monsanto, Pennsalt, Dow Chemical, Sunoco, Scott Paper, Dana Corp., Foster Wheeler, Palisades Power Plant, Cook Nuclear Plant etc., Detroit, Metro Detroit, MI

1950-1985

Various Detroit Edison Plants Detroit, Metro Detroit, MI

1950-1985

Various commercial jobsites, Detroit, Metro Detroit, MI

1950-1985

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### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4, d. Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

ASARCO

**BABCOCK & WILCOX COMPANY** 

BONDEX

**BURNS & ROE** 

**CELOTEX CORPORATION** 

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

FLINTKOTE

**GAF CORPORATION** 

GARLOCK

GEORGIA PACIFIC

H.K. PORTER

HALLIBURTON .

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVARNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

OWENS ILLINOIS .

PITTSBURGH CORNING CORPORATION

PLIBRIÇO COMPANY

QUIGLEY

**RAYBESTOS-MANHATTAN** 

SEPCO

THAN ..

TURNER & NEWALL

UNITED STATES GYPSUM CO.

W.R. GRACE

Albert Harris

YARWAY

This list may be incomplete and is subject to change as discovery is ongoing.

S:\Complaints\DEADLINES\2020 Jan-June\HENNI, Carl PremBuil.docx

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### ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Alim Karin MD Lee Physician Group - At the Sanctuary 8960 Colonial Center Dr Ste 300 Fort Myers, FL 33905

Primary care - 06/2019 - Current

Dr. Donald Harris 8960 Colonial Center Dr Ste 300 Fort Myers, FL 33905

Previous Primary-care 2013-06/2019

Dr. Sunil Lalla 14171 Metropolis Ave Ste 202 Fort Myers, FL 33912

Lung Doctor - 09/2019 - Current

Dr. Elizabeth Cosmai Florida Heart Associates 1550 Barkley Cir Fort Myers, FL 33907 (239) 938-2000

Current Heart Doctor 2016 - current

Dr. Rubin – Retired 1550 Barkley Cir Fort Myers, FL, 33907

Previous heart doctor 2002-2015

Dr. Liliana Bustamante 1030 Commerce Creek Blvd. Cape Coral, FL 33909

Current Oncologist 10/13/2019

Dr. David Harris Gulf Coast Hospital

Prostate 2017

Warner Robin Hospital Georgia

Neck Surgery – 2007 Colonoscopy

Pneumonia – 2009

Southwest Fl. Regional Hospital Fort Myers, FL 33901

Heart attack - stent 2002

University of Ann Arbor MI

Ulcer surgery – 1961(?)

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### STATE OF MICHIGAN

# IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARL W. HENNI and CHARLENE HENNI

i. Figure  $\Omega$ 

ASBESTOS DOCKET
Case No: -NP(a)
HON. PATRICIA FRESARD

Plaintiff,

VS.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# JURY DEMAND

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 19, 2020

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#### STATE OF MICHIGAN

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

Plaintiffs,

ASBESTOS DOCKET
Case No. 20-008150-NP
HON. PATRICIA FRESARD

vs.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# EX-PARTE ORDER AUTOMATICALLY AMENDING COMPLAINT TO ADD PARTY DEFENDANTS

At a session of said Court held in the City-County Building, City of Detroit, County of Wayne, State of Michigan on: 7/21/2020

Presiding: PATRICIA FRESARD

Circuit Court Judge

This matter having come on to be heard upon motion of Plaintiffs, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's Complaint in the above-captioned matter may be and hereby is amended to add the following party defendants:

YORK RUBBER COMPANY, a Michigan Corporation;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

IT IS FURTHER ORDERED AND ADJUDGED that the Wayne County Clerk's office shall issue the summons(es) to be submitted by Plaintiff for the above defendant(s) effective on the date of this Order and expiring 91 days thereafter:

/s/ Patricia Fresard 7/21/2020

CIRCUIT COURT JUDGE
SAComplaints Other ANY SAME CALL Robert ORDER Lidour

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BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

Plaintiff,

ASBESTOS DOCKET
Case No: 20-008150-NP
HON. PATRICIA FRESARD

VS.

ACME INSULATION,

a Michigan Corporation;

ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

**BECHTEL CORPORATION** 

a Nevada Corporation

BEHLER-YOUNG CO.,

a Michigan Corporation;

THE BOOMER COMPANY,

a Michigan Corporation;

BURNHAM LLC,

a Delaware Coproration, f/k/a Burnham Corporation;

BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

CARVER PUMP CO.,

a Delaware Corporation;

CHERNE CONTRACTING CORPORATION

a Delaware Corporation

CLEAVER BROOKS COMPANY,

a Pennsylvania Corporation;

**CLOW CORPORATION,** 

a Delaware Corporation;

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#### COOPER INDUSTRIES LLC.

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

### CROSBY VALVE, LLC,

a Nevada Corporation;

# DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

# DURAMETALLIC CORPORATION,

a Michigan Corporation;

# EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

#### ESCON GROUP, INC.

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric

#### EVERLASTING VALVE CO.,

a Michigan Corporation;

### F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

# FORD MOTOR COMPANY,

a Delaware Corporation;

## GOODALL RUBBER COMPANY,

a New Jersey Corporation;

### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

# GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

# THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation

### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

### J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation:

### JOHN E. GREEN COMPANY,

a Michigan Corporation;

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BIRMINGHAM, MI 48009

## JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K & C SUPPLY, INC.,

an Ohio Corporation;

## O.C. KECKLEY COMPANY,

an Illinois Corporation;

### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

## THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; Internat;

### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

#### MIDLAND ROSS CORPORATION.

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

# MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

#### NAGLE PUMPS, INC.,

an Ohio Corporation;

# THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

# NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation;

NIBCO, INC.,

an Indiana Corporation;

## POWER PROCESS PIPING, INC.,

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

RIC-WIL, INC.,

an Ohio Corporation;

#### ROGER ZATKOFF COMPANY.

a Michigan Corporation;

#### ROPER PUMP COMPANY,

a Delaware Corporation;

### ROTH PUMP COMPANY,

a Delaware Corporation;

### RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

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### SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

#### SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEALITE, INC.,

a California Corporation;

# SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

### **SPENCE BROTHERS**

a Michigan Corporation

## STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

#### STONE & WEBSTER, INC.

a Louisiana Corporation

### SULZER PUMPS (US) INC.,

a Delaware Corporation;

#### TACO, INC.,

a Rhode Island Corporation;

#### TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

#### THERMON, INC.,

a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company;

#### TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

### TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

### TUTHILL CORPORATION,

a Delaware Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VELAN VALVE CORP.,

a Delaware Corporation;

# VIKING PUMP, INC.,

a Delaware Corporation;

### WARREN PUMPS, LLC,

a Delaware Corporation;

# WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

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SUITE 406
BIRMINGHAM, MI 48009

### WEIL PUMP COMPANY,

an Illinois Corporation;

# WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

#### YORK INTERNATIONAL CORPORATION.

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

And

## YORK RUBBER COMPANY

a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# FIRST AMENDED COMPLAINT

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 001306 and Judge Stephen Stobb is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

adopts by reference each and every allegation in this Master Complaint.

2. Pursuant to the Court's Case Management Order of November 21, 2003, Plaintiff, SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased states as follows:

Deceased Plaintiff:

Robert L. McCaul

Decedent's Date of Birth:

December 31, 1932

Decedent's Date of Death:

May 30, 2018

Personal Representative:

Scott L. McCaul

Per. Rep.'s Birth Date:

May 14, 1956

Personal Representative's Address:

219 Englehardt

Bay City, MI 48706

Spouse of Decedent:

Pauline McCaul

Spouse's Date of Birth:

August 21, 1933

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

July 22, 2016

Decedent's Period of Exposure to

Asbestos:

1951-1953, 1955-1990 – subject to

further discovery

Decedent's Occupation:

Laborer/Inspector;

Employer(s):

Ferro Stamping & Manufacturing

Co.; Dow Chemical

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

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SUITE 406
BIRMINGHAM, MI 48009

Social Securi	ity Printout inclu	ded:	N	О	
(check one)	Yes	No_	<u>X</u>	(has been	ordered)

Geographical Situs of Asbestos

Exposure: Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** July 7, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUTTE 406
BIRMINGHAM, MI 48009

# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# **KNOWN JOB SITES**

# YEARS AT JOB SITES

Ferro Stamping & Manufacturing Co.

1951-1953, 1955-1956

**Dow Chemical** 

1956-1990

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

TURNER & NEWALL

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

LAW OFFICES

(248) 647-6966

This list may be incomplete and is subject to change as discovery is ongoing. SAComplaints\DEADLINES\2019 July-Dec\McCAUL, Robert SWLPf.doex

# ATTACHMENT "C"

All reasonably known medical information is as follows:

University of Michigan Health System 1500 E. Medical Center Drive Ann Arbor, MI 48109 (734) 936-4000

Dr. Robert Jones 4011 Orchard Dr. Suite 3004 Midland, MI 48640 (989) 488-5410

Cardiothoracic Surgeon

Dr, Tannu Sahay 315 W. Warwick Dr. Suite C Alma, MI 48801 (989) 463-9307

Oncologist

Dr. Christopher Murray 1910 Pine Ave. Alma, MI 48801 (989) 463-3101

Primary Care Physician

Mid-Michigan Health 4000 Wellness Dr. Midland, MI 48670 (989) 839-3000

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **STATE OF MICHIGAN**

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ACME INSULATION,

a Michigan Corporation;

ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor

in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans:

#### **BECHTEL CORPORATION**

a Nevada Corporation

### BEHLER-YOUNG CO.,

a Michigan Corporation;

# THE BOOMER COMPANY,

a Michigan Corporation;

#### BURNHAM LLC.

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson

Pump Division;

### CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### CARVER PUMP CO.,

a Delaware Corporation;

#### CHERNE CONTRACTING CORPORATION

a Delaware Corporation

#### CLEAVER BROOKS COMPANY,

a Pennsylvania Corporation;

### **CLOW CORPORATION,**

a Delaware Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406

SUITE 406 BIRMINGHAM, MI 48009

#### COOPER INDUSTRIES LLC.

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

### CROSBY VALVE, LLC,

a Nevada Corporation;

# DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

## **DURAMETALLIC CORPORATION,**

a Michigan Corporation;

#### EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

### ESCON GROUP, INC.

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric

### EVERLASTING VALVE CO.,

a Michigan Corporation;

# F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

## FORD MOTOR COMPANY,

a Delaware Corporation;

# GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

# THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation

### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### **IU NORTH AMERICA, INC..**

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

### J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

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BIRMINGHAM, MI 48009

#### JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

K & C SUPPLY, INC.,

an Ohio Corporation;

O.C. KECKLEY COMPANY,

an Illinois Corporation;

KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

### THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; Internat;

### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

### MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

#### MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

NAGLE PUMPS, INC.,

an Ohio Corporation;

#### THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

### NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation;

NIBCO, INC.,

an Indiana Corporation;

#### POWER PROCESS PIPING, INC.,

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

RIC-WIL, INC.,

an Ohio Corporation;

# ROGER ZATKOFF COMPANY,

a Michigan Corporation;

### ROPER PUMP COMPANY,

a Delaware Corporation;

### ROTH PUMP COMPANY,

a Delaware Corporation;

### RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

### SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEALITE, INC.,

a California Corporation;

# SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

#### **SPENCE BROTHERS**

a Michigan Corporation

# STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

# STONE & WEBSTER, INC.

a Louisiana Corporation

### SULZER PUMPS (US) INC.,

a Delaware Corporation;

#### TACO, INC.,

a Rhode Island Corporation;

### TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

#### THERMON, INC.,

a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company;

#### TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

## TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### TUTHILL CORPORATION,

a Delaware Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VELAN VALVE CORP.,

a Delaware Corporation;

### VIKING PUMP, INC.,

a Delaware Corporation;

## WARREN PUMPS, LLC,

a Delaware Corporation;

# WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

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SUITE 406
BIRMINGHAM, MI 48009

#### WEIL PUMP COMPANY,

an Illinois Corporation;

WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

# YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT IN WRONGFUL DEATH CASE COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 001306 and Judge Stephen Stobb is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
  - 2. Pursuant to the Court's Case Management Order of November 21,

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

2003, Plaintiff, SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased states as follows:

Deceased Plaintiff:

Robert L. McCaul

Decedent's Date of Birth:

December 31, 1932

Decedent's Date of Death:

May 30, 2018

Personal Representative:

Scott L. McCaul

Per. Rep.'s Birth Date:

May 14, 1956

Personal Representative's Address:

219 Englehardt

Bay City, MI 48706

Spouse of Decedent:

Pauline McCaul

Spouse's Date of Birth:

August 21, 1933

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

July 22, 2016

Decedent's Period of Exposure to

Asbestos:

1951-1953, 1955-1990 – *subject to* 

further discovery

Decedent's Occupation:

Laborer/Inspector;

Employer(s):

Ferro Stamping & Manufacturing

Co.; Dow Chemical

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

(check one) Yes

No X (has been ordered)

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 29, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### **KNOWN JOB SITES**

#### **YEARS AT JOB SITES**

Ferro Stamping & Manufacturing Co.

1951-1953, 1955-1956

**Dow Chemical** 

1956-1990

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N, OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

**CELOTEX CORPORATION** 

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

LESLIE

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**OUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

SUITE 406 BIRMINGHAM, MI 48009

(248) 647-6966

LAW OFFICES SERLING & ABRAMSON, P.C.

280 N. OLD WOODWARD AVE.

This list may be incomplete and is subject to change as discovery is ongoing. S:\Complaints\DEADLINES\2019 July-Dec\McAUL, Robert SWLPf.docx

#### **ATTACHMENT "C"**

All reasonably known medical information is as follows:

University of Michigan Health System 1500 E. Medical Center Drive Ann Arbor, MI 48109 (734) 936-4000

Dr. Robert Jones 4011 Orchard Dr. Suite 3004 Midland, MI 48640 (989) 488-5410

Cardiothoracic Surgeon

Dr, Tannu Sahay 315 W. Warwick Dr. Suite C Alma, MI 48801 (989) 463-9307

Oncologist

Dr. Christopher Murray 1910 Pine Ave. Alma, MI 48801 (989) 463-3101

Primary Care Physician

Mid-Michigan Health 4000 Wellness Dr. Midland, MI 48670 (989) 839-3000

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### **STATE OF MICHIGAN**

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

ASBESTOS DOCKET

Plaintiff,

Case No: -NP(a)
HON. PATRICIA FRESARD

vs.

ACME INSULATION, et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

**ALL ISSUES.** 

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 29, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**ELAINE WALCZYK, Personal** Representative for the Estate of RICHARD WALCZYK Deceased

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ABB, INC.,

a North Carolina Corporation, in its own right and as successor in interest to Asea Brown Boveri, Inc, BBC Brown Boveri, Inc. and Brown Boveri Electric, Inc.;

#### ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### All ACQUISITION LLC

a Pennsylvania limited liability company, formerly AII Acquisition Corp., a Delaware Corporation, in its own right and as successor in interest to Athlone Industries, Inc. and Holland Furnace Co.

#### THE ALLIANCE MACHINE COMPANY,

a Delaware Corporation;

#### AMERICAN CRANE CORPORATION,

a North Carolina Corporation;

#### AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### AMPHENOL CORPORATION,

a Delaware Corporation;

#### A.O. SMITH

a Delaware Corporation, in its own right and as successor in interest to Sawyer Electrical Manufacturing Co.

#### ARMSTRONG INTERNATIONAL, INC.,

a Michigan Corporation;

#### ARMSTRONG PUMPS, INC.,

a New York Corporation;

#### AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

#### AVOCET ENTERPRISES, INC.

f/k/a Ventfabrics, Inc., an Illinois Corporation

#### A.W. CHESTERTON COMPANY,

a Massachusetts Corporation;

SUITE 406 BIRMINGHAM, MI 48009

LAW OFFICES SERLING & ABRAMSON: B.C.

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BANNER ENGINEERING & SALES, INC.,

a Michigan Corporation, a/k/a Joseph M. Day Company;

#### **BASF CORPORATION**

a Delaware Corporation

#### BAYER CROPSCIENCE, INC.,

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

#### THE BOOMER COMPANY,

a Michigan Corporation;

#### BRYAN STEAM CORPORATION,

a New Mexico Corporation;

#### BRYAN STEAM, LLC,,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

#### **BURNHAM LLC,**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

#### CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### CARRIER CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Heil-Quaker Corporation, a/k/a Bryant Heating & Cooling Systems, Bryant Company, Payne Company, AFFILIATED GAS EQUIPMENT, INC., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co. and Heil Furnaces;

#### CARRIER CORPORATION,

a Delaware Corporation,;

#### **CARVER PUMP CO.,**

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION,

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

#### **CLEAVER BROOKS COMPANY,**

a Pennsylvania Corporation;

#### **CLOW CORPORATION,**

a Delaware Corporation;

#### COMPUDYNE CORPORATION,

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

LAW OFFICES
SERLING & ABRAMSON, B.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### COOPER INDUSTRIES LLC,

an Ohio Corporation, in its own right and as Successor to Crouse-Hinds Co. and The Cooper Bessemer Corp., and as Successor in Interest to McGraw-Edison Co., Wagner Electric Corp., Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

#### **CRANE CO.,**

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

#### CROSBY VALVE, LLC,

a Nevada Corporation;

#### DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

#### DURAMETALLIC CORPORATION,

a Michigan Corporation;

#### EATON CORPORATION,

an Ohio Corporation, in its own right and as successor in interest to Cutler-Hammer, Inc.;

#### ECR INTERNATIONAL, INC.

a New York Corporation, in its own right and as successor in interest to Airco Furnaces, Dunkirk-Olsen Furnaces, Olsen Furnace Olsen Technology, The Utica Companies and Oneida Royal

#### EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

#### **ELOF HANSSON USA INC.,**

a Delaware Corporation;

#### EVERLASTING VALVE CO.,

a Michigan Corporation;

#### F.B. WRIGHT COMPANY,

a Michigan Corporation;

#### F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

#### FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.,

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### **FMC CORPORATION,**

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

LAW OFFICES SERLING & ABRAMSON; F.E. 280 n. old woodward ave. suite 406

BIRMINGHAM, MI 48009

#### FORD MOTOR COMPANY,

a Delaware Corporation;

#### FOSECO, INC.,

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

#### FOSTER WHEELER ENERGY CORPORATION,

a New Jersey Corporation;

#### GENERAL ELECTRIC COMPANY,

a New York Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

#### GOULDS PUMPS, INCORPORATED,

a Delaware Corporation;

#### GREENE, TWEED & COMPANY,

a Pennsylvania Corporation;

#### GRINNELL LLC,

a Delaware Corporation;

#### **GUSMER ENTERPRISES, INC.,**

a New Jersey Corporation, in its own right and as successor in interest to The Cellulo Company, Filter Materials, Inc. and A. Gusmer, Inc.;

#### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### HONEYWELL INTERNATIONAL, INC.,

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

#### HOWARD ELECTRIC COMPANY,

a Michigan Corporation;

#### IMO INDUSTRIES, INC.,

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

#### INDUSTRIAL HOLDINGS CORPORATION,

a New York Corporation f/k/a Carborundum Corporation;

#### ITT INDUSTRIES, INC.,

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves;

#### IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

LAW OFFICES SERLING & ABRAMSON, B.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

#### JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K. L. McCOY AND ASSOCIATES, INC.,

a Michigan Corporation;

K & C SUPPLY, INC.,

an Ohio Corporation;

#### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

#### LENNOX INDUSTRIES, INC.

an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace

#### LIMBACH COMPANY LLC,

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

#### MARATHON PETROLEUM COMPANY LP,

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

#### THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

#### MCMASTER-CARR SUPPLY COMPANY,

an Illinois Corporation;

#### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

#### METROPOLITAN LIFE INSURANCE COMPANY,

a/k/a Metropolitan Insurance Co. a Delaware Corporation;

#### MICHIGAN VALVE AND FOUNDRY CORPORATION,

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

#### MIDWEST VALVE & FITTING COMPANY,

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

SERLING & ABRAMSON; B.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### MORGAN ENGINEERING SYSTEMS, INC.,

a Delaware Corporation;

#### MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

NACKE DESAFOR INC

NAGLE PUMPS, INC., an Ohio Corporation;

#### THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

#### NEW COLEMAN HOLDINGS, INC.

a Kansas Corporation

#### PARKER-HANNIFIN CORPORATION,

an Ohio Corporation, as parent corporation of Parker Packing Division;

#### PFIZER, INC.,

a Delaware Corporation;

#### POWER PROCESS PIPING, INC.,

a Michigan Corporation;

#### R. L. DEPPMANN COMPANY,

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

#### RANKIN AUTOMATION COMPANY, LLC,

a Delaware Corpoarion;

#### **REUNION INDUSTRIES, INC.,**

a Delaware Corporation;

#### **REX/ROTO CORPORATION,**

a Michigan Corporation;

#### RHEEM MANUFACTURING COMPANY

a Delaware Corporation

RIC-WIL, INC.,

an Ohio Corporation;

#### RILEY POWER, INC.,

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

#### ROGER ZATKOFF COMPANY,

a Michigan Corporation;

#### ROPER PUMP COMPANY,

a Delaware Corporation;

#### ROTH PUMP COMPANY,

a Delaware Corporation;

#### RUST INTERNATIONAL, INC.,

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

#### RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

#### SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

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BIRMINGHAM, MI 48009

#### SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEALITE, INC.,

a California Corporation;

#### SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

#### SHAW-WINKLER, INC.,

a Michigan Corporation;

#### SQUARE D COMPANY,

a Delaware Corporation;

#### STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### THE STANLEY-CARTER COMPANY.

a Michigan Corporation;

#### STERLING FLUID SYSTEMS (USA), LLC,

f/k/a Peerless Pump Company, a Delaware Corporation;

#### SULZER PUMPS (US) INC.,

a Delaware Corporation;

#### TACO, INC.,

a Rhode Island Corporation;

#### THIEM CORPORATION,

a/k/a Universal Refractories, Inc., a Delaware Corporation;

#### TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.,

Successor in Interest to Union Carbide, a New York Corporation;

#### UNION PUMPS COMPANY,

f/k/a David Brown Union Pump Company, a Michigan Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VIACOM INTERNATIONAL, INC.,

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor in Interest to Westinghouse Electric Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric & Manufacturing Company, in its own right and as Successor in Interest to Luxaire, Inc.;

#### VIKING PUMP, INC.,

a Delaware Corporation;

#### W. J. O'NEIL CO.,

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

#### W. M. SPRINKMAN, LLC,

a Wisconsin Corporation;

#### WARREN PUMPS, LLC,

a Delaware Corporation;

#### WAYNE/SCOTT FETZER COMPANY,

a Delaware Corporation, f/k/a Wayne Combustion System;

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\_\_\_\_\_

#### WEIL-MCLAIN

a Delaware Corporation

#### WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

#### WELTON RUBBER COMPANY,

a Michigan Corporation, formerly known as Welton Rubber

& Asbestos Company;

#### THE WILLIAM POWELL COMPANY,

an Ohio Corporation;

#### YORK RUBBER COMPANY,

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949)
SERLING & ABRAMSON, P.C.
Attorney for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

## NOTICE OF COMPLAINT COMPLAINT (WITH PREMISES LIABILITY COUNT)

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Deceased Plaintiff," Standard Pleading No. 14. Plaintiff adopts by reference each and every allegation in this Master Complaint.

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2. Pursuant to the Court's Case Management Order of June 24, 2016, Plaintiff, ELAINE WALCZYK Personal Representative for the Estate of RICHARD WALCZYK, Deceased states as follows:

# PREMISES LIABILITY COUNT AS TO DEFENDANTS, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP

- A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Deceased Plaintiff," Standard Pleading No. 14.
- B. That during the period 1967-2003, Decedent was exposed to toxic levels of environmental pollutants including asbestos fibers due to his employment working on a project over which Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, had supervision and control at a building owned by Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, located in the county of Wayne.
- C. That in the course of Decedent's employment with the employer at the aforementioned location, Decedent was required to work in an area of the building in which he was exposed to asbestos containing materials.
- D. That in the course of Decedent's employment with the employer at the aforementioned location, Decedent was required to work in an area where asbestos containing material was used and upon his return from work, brought home with him, within the family motor vehicle(s) and upon his person, on his shoes, clothing, handkerchiefs, and upon his other personal articles, and items brought into the home from the jobsite, particles

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of asbestos and asbestos dust and fibers to which he was exposed at his place of employment.

- E. That the work was being undertaken by the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, through their employees and the agency of various contractors and subcontractors, including Decedent's employer, and that the work in which Decedent was engaged in at the time of this occurrence was inherently dangerous work.
- F. That it was then and there the duty of the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, to provide a safe place for invitees such as the Decedent and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.
- G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Decedent to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.
- H. That the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, breached their duties and were negligent in the following manner:
  - (a) failed to provide adequate and proper ventilation;
  - failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;

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(c) failed to provide a safe place for Decedent to work;

(d) failed to safely and properly operate and maintain the

construction site premises;

(e) failed to inspect the premises for dangerous and/or hazardous

conditions;

(f) employed a careless and/or negligent general contractor;

(g) maintained a right of control over the construction work and

were negligent in their supervision and job inspection;

(h) failed to warn Decedent of the dangerous and/or hazardous

condition that they knew or should have known existed.

I. That in the happening of the aforesaid incident, Decedent was not

guilty of negligence or of contributory negligence, but as a direct and proximate result of

Defendants' negligence, Decedent suffered harmful exposure to asbestos fibers causing

and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental

anguish, discomfort and inconvenience.

WHEREFORE, Plaintiff demands judgment against the Defendants herein

for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be

entitled, together with interests, costs and attorneys fees.

3. Pursuant to the Court's Case Management Order of June 24, 2016,

Plaintiff, ELAINE WALCZYK Personal Representative for the Estate of RICHARD

WALCZYK, Deceased states as follows:

Deceased Plaintiff:

Richard Walczyk

Decedent's Date of Birth:

October 30, 1942

Decedent's Date of Death:

July 20, 2020

Personal Representative:

Elaine Walczyk

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Per. Rep.'s Birth Date:

September 21, 1942

Personal Representative's Address:

32179 Knapp Ave. Warren, MI 48093

Spouse of Decedent:

Elaine Walczyk

Spouse's Date of Birth:

September 21, 1942

Disease:

Lung Cancer

Date of Decedent's Diagnosis:

March 23, 2020

Decedent's Period of Exposure to

Asbestos:

1942-1963 (exposure through father);

1963-2002 – subject to further

discovery

Decedent's Occupation:

Steamfitter/Pipefitter

Employer(s):

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

(check one) Yes \_\_\_\_ No

No X (has been ordered)

Geographical Situs of Asbestos

Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009

(248) 647-6966

DATED: September 24, 2020

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#### ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### **KNOWN JOB SITES**

#### YEARS AT JOB SITES

Cadillac Plant, Detroit, MI

1942-1963 (Exposure through father, Peter Walczyk)

City of Detroit, Detroit, MI

1963-1967

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Marathon Oil Refinery, Wyandotte Chemical, etc.,

Detroit, Metro Detroit, MI

1967-2003

Various Detroit Edison Plants

Detroit, Metro Detroit, MI

1967-2003

Various commercial jobsites,

Detroit, Metro Detroit, MI

1967-2003

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#### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

BONDEX

**BURNS & ROE** 

CELOTEX CORPORATION

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

**THAN** 

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

This list may be incomplete and is subject to change as discovery is ongoing. WALCZYK, Richard PremSFPF.docx

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#### ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Thomas K. Thomas 22480 Kelly Rd. #2 Eastpointe, MI 48021

PCP 40 yrs

Dr. Larry Tankenow 30117 Schoenherr Rd., Ste. 100

Warren, MI 48088

Primary Lung Doctor

Dr. V. Gudaguntla 25195 Kelly Rd.

Roseville, MI 48066 Heart Doctor 2013 - Current

Dr. Kenneth Tucker 11885 12 mile Rd., #100B

Warren, MI 48093 Cancer Doctor – Feb 2020

Henry Ford Macomb 15855 19 Mile Rd, Clinton Twp, MI 48038

(586) 263-2300 Prostatectomy – 2009 Dr. Randy Chudler MIU

Ascension St. John Hospital 22101 Moross Rd.

Detroit, MI 48236 (313) 343-4000

Embolectomy – Oct 2015 Dr. Kumara Rama

Ascension St. John Hospital

Dr. Kumara Rama 22101 Moross Rd. Detroit, MI 48236 (313) 343-4000

Aortic Aneurysm w/stent graft - Jan 2016

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#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE WALCZYK, Personal Representative for the Estate of RICHARD WALCZYK Deceased,

ASBESTOS DOCKET

HON. PATRICIA FRESARD

Case No:

-NP(a)

Plaintiff,

vs.

ABB, INC, et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### JURY DEMAND

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: September 24, 2020

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SUITE 406
BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER and CYNTHIA ESPER

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ABB, INC.

a North Carolina Corporation, in its own right and as successor in interest to Asea Brown Boveri, Inc, BBC Brown Boveri, Inc. and Brown Boveri Electric, Inc.;

#### ADIENCE, INC.

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### THE ALLIANCE MACHINE COMPANY

a Delaware Corporation;

#### AMERICAN CRANE CORPORATION

a Pennsylvania Corporation;

#### AMERON INTERNATIONAL CORPORATION

a Delaware Corporation;

#### AMPHENOL CORPORATION

a Delaware Corporation;

#### ANDERSON GREENWOOD & COMPANY

a Texas Corporation;

#### ARMSTRONG INTERNATIONAL, INC.

a Michigan Corporation;

#### ARMSTRONG PUMPS, INC.

a New York Corporation;

#### AUBURN MANUFACTURING COMPANY

a Connecticut Corporation;

#### A.W. CHESTERTON COMPANY

a Massachusetts Corporation;

#### BALTIMORE ENNIS LAND COMPANY, INC.

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BANNER ENGINEERING & SALES, INC.

a Michigan Corporation, a/k/a Joseph M. Day Company;

#### BASF CORPORATION

a Delaware Corporation;

#### BAYER CROPSCIENCE, INC.

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

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#### THE BOOMER COMPANY

a Michigan Corporation;

#### **BRYAN STEAM CORPORATION**

a New Mexico Corporation;

#### BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;;

#### **BURNHAM LLC**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

#### CAMERON INTERNATIONAL CORPORATION

a Delaware Corporation;

#### CARRIER CORPORATION

a Delaware Corporation, a/k/a Bryant Heating & Cooling Systems, Bryant Company, Payne Company, AFFILIATED GAS EQUIPMENT, INC., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co., Heil-Quaker Corporation and Heil Furnaces;

#### CARVER PUMP CO.

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

#### CLEAVER BROOKS COMPANY

a Pennsylvania Corporation;

#### **CLOW CORPORATION**

a Delaware Corporation;

#### COMPUDYNE CORPORATION

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

#### COOPER INDUSTRIES LLC

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

#### CRANE CO.

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

#### **CROSBY VALVE, LLC**

a Nevada Corporation;

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#### DAUBERT CHEMICAL COMPANY, INC.

an Illinois Corporation;

#### DURAMETALLIC CORPORATION

a Michigan Corporation;

#### EDWARD VOGT VALVE CO.

a North Carolina Corporation;

#### ELOF HANSSON USA INC.

a Delaware Corporation;

#### EVERLASTING VALVE CO.

a Michigan Corporation;

#### F.B. WRIGHT COMPANY

a Michigan Corporation;

#### F.L. SMIDTH DORR-OLIVER EIMCO INC.

a Delaware Corporation;

#### FLOWSERVE CORPORATION

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### **FMC CORPORATION**

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

#### FORD MOTOR COMPANY

a Delaware Corporation;

#### FOSECO, INC.

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

#### FOSTER WHEELER ENERGY CORPORATION

a New Jersey Corporation;

#### GENERAL ELECTRIC COMPANY

a New York Corporation;

#### GOODALL RUBBER COMPANY

a New Jersey Corporation;

#### GOODRICH CORPORATION

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY

an Ohio Corporation;

#### GOULDS PUMPS, INCORPORATED

a Delaware Corporation;

#### **GREENE, TWEED & COMPANY**

a Pennsylvania Corporation;

#### **GRINNELL LLC**

a Delaware Corporation;

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#### HARRISON PIPING SUPPLY COMPANY

a Michigan Corporation;

#### HONEYWELL INTERNATIONAL, INC.

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

#### HOWARD ELECTRIC COMPANY

a Michigan Corporation;

#### IMO INDUSTRIES, INC.

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

#### ITT INDUSTRIES, INC.

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves, Hoffman Specialty, Marlow Pumps;

#### IU NORTH AMERICA, INC.

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### JOHN E. GREEN COMPANY

a Michigan Corporation;

#### JOHNSON CONTROLS, INC.

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K & C SUPPLY, INC.

an Ohio Corporation;

#### KERR PUMP AND SUPPLY, INC.

a Michigan Corporation;

#### LIMBACH COMPANY LLC

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

#### MARATHON PETROLEUM COMPANY LP

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

#### THE MARLEY-WYLAIN COMPANY

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

#### MCMASTER-CARR SUPPLY COMPANY

an Illinois Corporation;

#### MCWANE, INC.

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

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#### METROPOLITAN LIFE INSURANCE COMPANY

a/k/a Metropolitan Insurance Co. a Delaware Corporation;

#### MICHIGAN VALVE AND FOUNDRY CORPORATION

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion:

#### MIDWEST VALVE & FITTING COMPANY

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

#### NAGLE PUMPS, INC.

an Ohio Corporation;

#### PARKER-HANNIFIN CORPORATION

an Ohio Corporation, as parent corporation of Parker Packing Division;

#### PFIZER, INC.

a Delaware Corporation;

#### POWER PROCESS PIPING, INC.

a Michigan Corporation;

#### R. L. DEPPMANN COMPANY

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY

a North Carolina Corporation;

RIC-WIL, INC.

an Ohio Corporation;

#### RILEY POWER, INC.

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

#### ROGER ZATKOFF COMPANY

a Michigan Corporation;

#### ROPER PUMP COMPANY

a Delaware Corporation;

#### **ROTH PUMP COMPANY**

a Delaware Corporation;

#### RUST INTERNATIONAL, INC.

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

#### RUTHMAN PUMP & ENGINEERING, INC.

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

#### SCHAD BOILER SETTING COMPANY

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEAWAY MECHANICAL CONTRACTORS, INCORPORATED

a Michigan Corporation;

#### SHAW-WINKLER, INC.

a Michigan Corporation;

#### SHERWIN-WILLIAMS COMPANY

an Ohio Corporation, a/k/a Mercury Paints;

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#### SOCONY MOBIL COMPANY, INC.

a Delaware Corporation, a/k/a Mobil Oil Corporation;

#### **SQUARE D COMPANY**

a Delaware Corporation;

#### STANDARD FUEL ENGINEERING COMPANY

a Michigan Corporation;

#### THE STANLEY-CARTER COMPANY

a Michigan Corporation;

#### STERLING FLUID SYSTEMS (USA), LLC

f/k/a Peerless Pump Company, a Delaware Corporation;

#### SULZER PUMPS (US) INC.

a Delaware Corporation;

#### SUNOCO, INC (R&M)

a Pennsylvania Corporation;

#### TACO, INC.

a Rhode Island Corporation;

#### THIEM CORPORATION

a/k/a Universal Refractories, Inc., a Delaware Corporation;

#### TRANS-PUMPS, INC.

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.

Successor in Interest to Union Carbide, a New York Corporation;

#### UNION PUMPS COMPANY

f/k/a David Brown Union Pump Company, a Michigan Corporation;

#### UNIROYAL, INC.

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VIACOM INTERNATIONAL, INC.

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor

in Interest to Westinghouse Electric Corporation, a

Pennsylvania Corporation, f/k/a Westinghouse Electric &

Manufacturing Company, in its own right and as Successor in

Interest to Luxaire, Inc.;

#### VIKING PUMP, INC.

a Delaware Corporation;

#### W. J. O'NEIL CO.

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

#### W. M. SPRINKMAN, LLC

a Wisconsin Corporation;

#### WARREN PUMPS, LLC

a Delaware Corporation;

#### WAYNE/SCOTT FETZER COMPANY

a Delaware Corporation, f/k/a Wayne Combustion System;

#### WEIR VALVES & CONTROLS USA, INC.

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

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#### WELTON RUBBER COMPANY

a Michigan Corporation, formerly known as Welton Rubber & Asbestos Company;

#### THE WILLIAM POWELL COMPANY

an Ohio Corporation;

#### YORK RUBBER COMPANY

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

### NOTICE OF COMPLAINT COMPLAINT (WITH PREMISES LIABILITY COUNT)

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

NOW COME Plaintiffs, by and through their Attorney, SERLING & ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13. Plaintiffs adopt by reference each and every allegation in this Master Complaint.
- Pursuant to the Court's Case Management Order of June 24, 2016,
   Plaintiffs, DONALD ESPER and CYNTHIA ESPER, his wife, state as follows:

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BIRMINGHAM, MI 48009

# PREMISES LIABILITY COUNT AS TO DEFENDANTS BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M)

- A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13.
- B. That during the period 1969-2009, Plaintiff was exposed to toxic levels of environmental pollutants including asbestos fibers while in the course of his employment with various employers working on a project over which Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), had supervision and control at a building owned by Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), located in the county of, including but not limited, to Wayne.
- C. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area of the building in which he was exposed to asbestos containing materials.
- D. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area where asbestos containing material was used.
- E. That the work was being undertaken by the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M),

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through their employees and the agency of various contractors and subcontractors, including Plaintiff's employer(s), and that the work in which the Plaintiff was engaged in at the time of this occurrence was inherently dangerous work.

F. That it was then and there the duty of the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), to provide a safe place for invitees such as the Plaintiff and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.

G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Plaintiff to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.

H. That the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), breached their duties and were negligent in the following manner:

- (a) failed to provide adequate and proper ventilation;
- (b) failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;
- (c) failed to provide a safe place for Plaintiff to work;

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- (d) failed to safely and properly operate and maintain the construction site premises;
- (e) failed to inspect the premises for dangerous and/or hazardous conditions;
- (f) employed a careless and/or negligent general contractor;
- (g) maintained a right of control over the construction work and were negligent in their supervision and job inspection;
- (h) failed to warn Plaintiff of the dangerous and/or hazardous condition that they knew or should have known existed.
- I. That in the happening of the aforesaid incident, Plaintiff was not guilty of negligence or of contributory negligence, but as a direct and proximate result of Defendants' negligence, Plaintiff suffered harmful exposure to asbestos fibers causing and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental anguish, discomfort and inconvenience.

WHEREFORE, Plaintiff demands judgment against the Defendants herein for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be entitled, together with interests, costs and attorneys fees.

3. In addition to Paragraphs 1 and 2 herein, and Pursuant to the Court's Case Management Order of June 24, 2016, Plaintiffs, DONALD ESPER and CYNTHIA ESPER, his wife, state as follows:

Living Plaintiff:

Donald Esper

Plaintiff's Date of Birth:

December 22, 1938

Plaintiffs' Residence:

5844 N. Evangeline St.

Dearborn Heights, MI 48127

Spouse:

Cynthia Esper

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Spouse's Date of Birth:

August 31, 1954

Disease:

Asbestosis

Date of Diagnosis:

December 5, 2019

Period of Exposure to Asbestos:

1969-2009 – subject to further

discovery

Occupation:

Insulator

Employer:

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included:

(check one) Yes \_\_\_\_

No  $\underline{X}$  (has been ordered)

Geographical Situs of Asbestos

Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

No

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: December 15, 2020

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#### ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### KNOWN JOB SITES

#### YEARS AT JOB SITES

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Marathon Oil Refinery, Mobil Oil Refinery, Sun Oil Refinery, etc., Detroit, Metro Detroit, MI

1969-2009

Various Detroit Edison Plants Detroit, Metro Detroit, MI

1969-2009

Various commercial jobsites, Detroit, Metro Detroit, MI

1969-2009

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#### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

HALLIBURTON

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

KVAERNER

LESLIE

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

OGLEBAY NORTON

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

OUIGLEY

**RAYBESTOS-MANHATTAN** 

SEPCO

THAN

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

This list may be incomplete and is subject to change as discovery is ongoing.

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#### ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Matteo Valenti 20317 Farmington Rd. Livonia, MI 48152 (248) 615-0777

Primary Care 3+ yrs

Dr. Mark Rasak 28080 Grand River Ave. Farmington Hills, MI 48336 (248) 615-7300

Current Heart Doctor 10 Yrs.

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#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER and CYNTHIA ESPER

ASBESTOS DOCKET

Case No: -NP(a)
HON, PATRICIA FRESARD

Plaintiff,

VS.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE ALL

ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: December 15, 2020

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(248) 647-6966

## **EXHIBIT B**

### Poindexter, Isher

From: Fishman, Patrick M.

**Sent:** Friday, June 24, 2022 2:35 PM

**To:** Gostek, Katharine W.; Wittmann, Beth A.

**Subject:** Fwd: Service for Standard Fuel Engineering Company

Attachments: Notice of Hearing; Plaintiffs' Motion for Injunctive Relief and Brief in Support.pdf

#### Sent from my iPhone

Begin forwarded message:

From: cgreen@serlinglaw.com

Date: June 24, 2022 at 2:27:12 PM EDT

To: "Fishman, Patrick M." <patrick.fishman@kitch.com>
Subject: Service for Standard Fuel Engineering Company

Good afternoon, Mr. Fishman,

I am unable to serve you via File and Serve Express, with a copy of our Notice of Hearing, Plaintiffs' Motion for Injunctive Relief and Brief in Support, and Proof of Service as it relates to Standard Fuel Engineering Company. Hickey & Cianciolo's office is still listed as attorney of record for Standard Fuel Engineering Company in the File and Serve Express system.

Service was completed via File and Serve Express as it relates to Spence Brothers (see below).

I am attaching a copy of the Notice of Hearing, Motion, and Proof of Service to this e-mail. Please confirm your receipt.

Thank you.

Connie Green Legal Assistant Serling & Abramson, P.C. Attorneys and Counselors at Law 280 N. Old Woodward, Suite 406 Birmingham, MI 48009 (248) 647-6966 (phone) (248) 647-9630 (fax) 1-800-995-6991 (toll free)

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please do not read it, reply to the sender that you received the

message in error, and erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the clients represented by the law firm of Serling & Abramson, P.C. in the particular matter that is the subject of this message and may not be relied upon by any other party.

----Original Message-----From: FileAndServeXpress

<TransactionReceipt@secure-mail.fileandservexpress.com>

Sent: Friday, June 24, 2022 2:03 PM

To: cgreen@serlinglaw.com

Subject: Case: Multi-Case; Transaction: 67761580 Transaction Receipt

To: Connie Green

Subject: Transaction Receipt

This email is to confirm receipt of your documents. The transaction option you selected was "Serve Only - Public". The details for this transaction are listed below.

Court: MI Wayne County Circuit Court E-Service

Case Name: Multi-Case Case Number: Multi-Case Transaction ID: 67761580

Authorized Date/Time: Jun 24 2022 2:03PM EDT

Authorizer: Margaret Holman-Jensen

Authorizer's Organization: Serling & Abramson PC

**Sending Parties:** 

14 parties

Served Parties: Spence Brothers Document Title(s):

Notice of Hearing; Plaintiffs' Motion for Injunctive Relief and

Brief in Support; Proof of Service (65 pages)

Link to transaction details page where all documents can be viewed:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fsecure.fileandservexpress.com%2fLogin%2fLogin.aspx%3fFI%3d67761580&c=E,1,b1x6T4k59rHo5l3crrJv-

TPgavx8g1a7ZxvisHAx\_LI5TrABdQWQDwR9N0ZkkVg2Jdoo5aRKnRI6BMyJZytWEDQpay EaKLVnlY2vMtB gyKc0x sgLZOlw3RSwY,&typo=0

Thank you for using File & ServeXpress.

Questions? For prompt, courteous assistance please contact File & ServeXpress Client Support by phone at 1-888-529-7587 (24/7).

# Poindexter, Isher

**Subject:** FW: Case: Multi-Case; Transaction: 67761580 - Notification of Service

----Original Message-----

From: FileAndServeXpress <ServiceNotification@secure-mail.fileandservexpress.com>

Sent: Friday, June 24, 2022 2:03 PM

To: Fishman, Patrick M. <patrick.fishman@kitch.com>

Subject: Case: Multi-Case; Transaction: 67761580 - Notification of Service

To: Patrick M Fishman From: File & ServeXpress

Subject: Service of Documents in Multi-Case

You are being served documents that have been electronically submitted in Multi-Case through File & ServeXpress. The details for this transaction are listed below.

Court: MI Wayne County Circuit Court E-Service

Case Name: Multi-Case
Case Number: Multi-Case
Transaction ID: 67761580

Authorized Date/Time: Jun 24 2022 2:03PM EDT

Authorizer: Margaret Holman-Jensen Authorizer's Organization: Serling & Abramson PC

Sending Parties: 14 parties

Served Parties:

Spence Brothers

Document Title(s):

Notice of Hearing; Plaintiffs' Motion for Injunctive Relief and Brief in Support; Proof of Service (65 pages)

Link to transaction details page where all documents can be viewed: https://secure.fileandservexpress.com/Login/Login.aspx?FI=67761580

Thank you for using File & ServeXpress.

Questions? For prompt, courteous assistance please contact File & ServeXpress Client Support by phone at 1-888-529-7587 (24/7).

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

## Asbestos Docket – January 24, 2022 Trial Group

Barber, Dec., Larry

Beatty, Dec., Earl

Case No. 20-006826-NP
Case No. 20-006060-NP
Esper, Donald and Cynthia
Case No. 20-016314-NP
Henni, Dec., Carl
Case No. 20-007746-NP
Kachman, Dec., Nicholas
Case No. 20-005638-NP
McCaul, Dec., Robert
Case No. 20-008150-NP
Walczyk, Dec., Richard
Case No. 20-012537-NP

Plaintiffs,

HON. PATRICIA FRESARD

VS.

STANDARD FUEL ENGINEERING, COMPANY, a Michigan Corporation; and

SPENCE BROTHERS, a Michigan Corporation

Defendants.

ERIC B. ABRAMSON (P60949) MARGARET H. JENSEN (P33511) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966 PATRICK M. FISHMAN (P41656) KITCH, DRUTCHAS, WAGNER, VALITUTTI & SHERBROOK Attorney for Defendants One Woodward Ave., Ste. 2400 Detroit, MI 48226 (313) 965-7900

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE that Plaintiffs' Motion for Injunctive Relief and

Brief in Support has been filed in the above-captioned matter. Said motion will be

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brought for hearing before the Honorable Patricia Fresard on Friday, **July 15, 2022** at **9:00** a.m., or as soon thereafter as counsel may be heard.

#### PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause of each of the attorneys of record herein at their respective address disclosed on the pleading this <u>24th</u> day of July, <u>2022</u>. By: \_\_\_ U. S. Mail \_\_ Certified \_\_ First Class

X LexisNexis File & Serve Xpress

\_\_\_ MiFile/TrueFiling

/s/Consuela Green

Dated: June 24, 2022

Respectfully Submitted, SERLING & ABRAMSON, P.C.

/s/ Margaret H. Jensen

Eric B. Abramson (P60949)
Margaret H. Jensen (P33511)
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Suite 406
Birmingham, MI 48009
248-647-6966

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#### STATE OF MICHIGAN

### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

# Asbestos Docket - January 24, 2022 Trial Group

Barber, Dec., Larry

Beatty, Dec., Earl

Case No. 20-006826-NP

Case No. 20-006060-NP

Esper, Donald and Cynthia

Case No. 20-016314-NP

Henni, Dec., Carl

Case No. 20-007746-NP

Kachman, Dec., Nicholas

McCaul, Dec., Robert

Case No. 20-008150-NP

Walczyk, Dec., Richard

Case No. 20-012537-NP

Plaintiffs,

HON. PATRICIA FRESARD

VS.

STANDARD FUEL ENGINEERING, COMPANY, a Michigan Corporation; and

SPENCE BROTHERS, a Michigan Corporation

### Defendants.

ERIC B. ABRAMSON (P60949)

MARGARET H. JENSEN (P33511)

SERLING & ABRAMSON, P.C.

Attorneys for Plaintiffs

280 N. Old Woodward Ave., Ste. 406

Birmingham, Michigan 48009

(248) 647-6966

PATRICK M. FISHMAN (P41656)

KITCH, DRUTCHAS, WAGNER,

VALITUTTI & SHERBROOK

Attorney for Defendants

One Woodward Ave., Ste. 2400

Detroit, MI 48226

(313) 965-7900

# PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF AND BRIEF IN SUPPORT

NOW COMES the above-named Plaintiffs, by and through their attorneys, Serling & Abramson, P.C., and pursuant to MCR 3.310, move this Honorable Court for an Injunction to prevent Defendants from contesting the dates of exposure discussed at the time of settlement as required by this Court's Case Management Orders, and from reporting dates of exposure inconsistent with the agreed upon dates. In support thereof, plaintiffs state as follows:

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These asbestos personal injury cases were part of the Court's January 24,
 2022 trial docket.

2. All of Plaintiffs' claims against Standard Fuel Engineering Company were resolved with attorney Brendan Atkins from the law firm of Hickey & Cianciolo, P.C. It should be noted that Standard Fuel Engineering has consistently denied, in discovery and prior settlement negotiations, that any plaintiff had exposure to its products after 1978. In resolving these cases, Plaintiffs' and Defendant's counsel considered and discussed the issue of pre/post80 exposure as required by CMO #21, which states that the "information requested in boxes 12,13 [concerning first and last date of exposure to settling defendant's products] on that Form[B]... shall be discussed at the time of settlement...".

3. After the resolution of these cases, Defendant Standard Fuel Engineering Company retained attorney Patrick Fishman at the law firm of Kitch, Drutchas, Wagner, Valitutti and Sherbrook to send releases to plaintiffs and to process payment of these settlements, as well as to take over the litigation of any pending or new cases.

4. On February 22, 2022, Plaintiffs' counsel sent a confirmation letter to Mr. Fishman stating the terms of the settlement and confirming that Plaintiffs' claims against Standard Fuel Engineering Company did not involve post-1980 exposure, stating "If you disagree, please contact me immediately." (Exhibit 1; Feb.22,2022 Confirming Letter)

Plaintiffs' counsel further stated:

"As we discussed, for Medicare purposes, as it relates to dates of first and last exposure to asbestos, it is further agreed that Plaintiff's discovery Brochure accurately sets forth those time frames. If you disagree with this, please contact me immediately."

"Please be advised that all of the Medicare eligible cases have been resolved pursuant to the Garretson Asbestos Malignancy Program or the Asbestos Non-Malignancy Global Resolution."

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BIRMINGHAM. MI. 48009

 Regarding Defendant Spence Brothers, Plaintiffs' counsel resolved two claims, the estate of Larry Barber and the estate of Robert McCaul, with defense counsel, Patrick Fishman.

7. In order to resolve these two claims, Plaintiffs' counsel provided Mr. Fishman with sales invoices to prove exposure in 1968 to Defendant Spence Brothers' products. There was no evidence of later exposure to this defendant's products in these cases. (See Exhibit 2, E-mail and attached 1968 sales invoices)

8. On January 28, 2022, Plaintiffs' counsel sent a letter to Mr. Fishman confirming the settlement with Spence Brothers and confirming that both cases were pre-1980 exposures. Plaintiffs' counsel further indicated, "If you disagree, please contact me immediately". (Exhibit 3; Jan.28, 2022 Confirming Letter)

9. Plaintiff's counsel further stated in his confirming letter:

"As we discussed, for Medicare purposes, as it relates to dates of first and last exposure to asbestos, it is further agreed that Plaintiff's discovery Brochure accurately sets forth those time frames. If you disagree with this, please contact me immediately."

"Please be advised that all of the Medicare eligible cases have been resolved pursuant to the Garretson Asbestos Malignancy Program or the Asbestos Non-Malignancy Global Resolution."

- 10. Subsequently, defense counsel sent releases to Plaintiffs' counsel for Standard Fuel Engineering Company and Spence Brothers settlements, which Plaintiffs' counsel had executed by his clients and returned to defense counsel on or about May 9, 2022.
- 11. On May 13, 2022, consent judgments were entered in all the above death cases. As required by the CMO, Plaintiffs' consent judgments included language dismissing the case with prejudice as to Defendant, Standard Fuel Engineering Company.

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280 N. OLD WOODWARD AVE.
SUITE 4006
BIRMINGHAM, MI 48009

(Exhibit 4; Orders dated 5/13/22)

12. On June 2, 2022, an Order of Dismissal and Administrative Closing was

entered in the Donald Esper (living) case, also dismissing Standard Fuel Engineering

Company with prejudice. (Exhibit 5; Order dated 6/02/22)

13. On June 8, 2022, defense counsel's office sent an email to Plaintiffs' counsel

indicating that the insurance carrier for Spence Brothers was contesting the pre-1980 status

of the Barber and McCaul cases.

14. On June 9, 2022, defense counsel informed Plaintiffs' counsel that Travelers

Insurance, one of the insurance carriers for Standard Fuel Engineering Company, which is

also the insurance carrier for Spence Brothers, indicated that "Travelers protocol is that

we do not limit our review of exposure dates to just discovery, we also go by what is listed

in the complaint ... If plaintiff's counsel is unwilling to amend the complaint and maintain

his position that they are reporting through Garreston as pre-1980...we will have to report

the settlement since we disagree."

15. Plaintiff's counsel has responded that this issue was discussed at the time of

settlement, there was no evidence of post-1980 exposure and that these cases were enrolled

in the Epig (formerly Garretson) AMP Program and should not be reported to CMS. In

subsequent discussions, Plaintiffs' counsel has also pointed out that these cases have

already been dismissed, such that the complaints cannot be amended.

16. It appears from discussions with defense counsel that Defendants' insurer,

Travelers Insurance Company, still intends to report these settlements to CMS as post-1980

exposures, contrary to Defendants' prior agreements with Plaintiffs.

WHEREFORE, Plaintiffs respectfully request an Injunctive Order of this Court

prohibiting Defendants from contesting the pre-1980 exposure dates of the above Plaintiffs

LAW OFFICES
MICHAEL B. SERLING, P.C.
280 N. OLD WOODWARD AVE
SUITE 406
BIRMINGHAM, MI 48009

as to Defendants Standard Fuel Engineering Company and Spence Brothers, which were agreed upon at the time of settlement, and further prohibiting Defendants, their insurers, and RRE's from reporting these settlements to CMS or Medicare as post-1980 exposures.

Respectfully Submitted, SERLING & ABRAMSON, P.C.

/s/ Margaret H. Jensen
Eric B. Abramson (P60949)
Margret H. Jensen (P33511)
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Suite 406

Birmingham, MI 48009

248-647-6966

Dated: June 24, 2022

# BRIEF IN SUPPORT

Plaintiffs seek the protection of this Court and ask this Court to enter an Injunction pursuant to MCR 3.310 to prevent Travelers Insurance Company and their RRE from reporting the settlements between Plaintiffs and Standard Fuel Engineering Company and Spence Brothers as post-1980 settlements, subjecting plaintiffs to unnecessary liens, costs and expenses. Plaintiffs also rely on the Case Management Orders of this Honorable Court, including CMO #17 and # 20, both of which require the parties to discuss at the time of settlement the information to be used on the Medicare reporting Form B, item #12, (the date of first exposure to the settling defendant's product) and item #13 (the date of last exposure to the settling defendant's product).

Plaintiffs have complied with the Court rules and Case Management Orders of this Court by discussing and resolving the pre/post-1980 exposure issues at the time the settlements were made. Plaintiffs' counsel specifically confirmed these pre-1980 settlement

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BIRMINGHAM, MI. 48009

agreements in writing <u>four months ago</u> and requested that defense counsel notify him immediately if there was any disagreement. Nothing was contested. Releases were sent and returned to Defendants. Dismissal of these cases were entered on May 13, 2022 for the death cases, and on June 2, 2022 for the single living case. In reliance on these facts, plaintiffs' counsel has already reported these settlements to CMS as pre-1980 exposures. Now, for the first time, Defendants contest the pre-1980 status of these claims, which will contradict what has already been reported to CMS and may require unnecessary time and expense to resolve. It would be inequitable to permit Defendants to now claim at this late date that these settlements are post-1980.

Defendants have <u>no duty</u> under any scenario to report pre-1980 exposures. Therefore, the only issue is whether Defendants should be permitted to change their position on the pre/post-1980 status of these claims after settlement discussions were concluded, after the confirmation letters were sent, after releases were executed by the Plaintiffs and returned to Defendants, after dismissal of the cases and after plaintiffs' counsel has already reported these settlements as pre-1980. Plaintiffs submit it would not be fair or just to permit Defendants to do so. Furthermore, as Plaintiffs have pointed out, these cases are enrolled in the Epiq programs and Defendants have no duty to report these settlements in any event. However, the Court need not address that particular issue at this time, since the Defendants should be estopped from contesting the pre-1980 exposure dates which its attorney agreed to, never contested in a timely manner and which only now, seeks to contest.

Plaintiffs also rely on CMO #17, paragraph #8, Sanctions for Impermissible Use or Distribution, which provides that: "Unauthorized use or unlawful distribution of the SSN's collected under this Order, or other violations of this Order, will be subject to penalties that

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SUITE 406
BIRMINGHAM, MI. 48009

<u>fall within the Court's contempt powers</u> or such other penalties as may issue in further orders of this Court." Emphasis Added.

WHEREFORE, Plaintiffs respectfully request an Injunctive Order of this Court prohibiting Defendants from contesting the pre-1980 exposure dates of the above Plaintiffs as to Defendants Standard Fuel Engineering Company and Spence Brothers, which were agreed upon at the time of settlement, and further prohibiting Defendants, their insurers, and RRE's from reporting these settlements to CMS or Medicare as post-1980 exposures.

Respectfully Submitted, SERLING & ABRAMSON, P.C.

/s/ Margaret H. Jensen

Eric B. Abramson (P60949) Margret H. Jensen (P33511) Attorneys for Plaintiffs 280 N. Old Woodward Ave., Suite 406 Birmingham, MI 48009 248-647-6966

Dated: June 24, 2022

LAW OFFICES
MICHAEL B. SERLING, P.C.
280 N. OLD WOODWARD AVE
SUITE 406
BIRMINGHAM, MI 48009

# EXHIBIT 1

#### SERLING & ABRAMSON, P.C.

Altorneys and Counselors at Law
280 NORTH OLD WOODWARD AVENUE, SUITE 406
BIRMINGHAM, MICHIGAN 48009

OF COUNSEL

KARL E. NOVAK

CHARLESTON, S. CAROLINA

THE LANIER LAW FIRM, P.C.

HOUSTON, TEXAS

PHILIP J. GOODMAN, P.C.

(248) 647-6966 · (800) 995-6991 FAX(248) 647-9630

DOWNRIVER OFFICE

February 22, 2022

VIA E-MAIL
Patrick, Fishman@kitch.com

Patrick M. Fishman, Esq. Kitch, Drutchas, Wagner, et al One Woodward Ave., Suite 2400 Detroit, MI 48226

Re: Wayne County January 2022 Trial Cases

Dear Mr. Fishman:

ERIC B. ABRAMSON

OF COUNSEL
MICHAEL B. SERLING
FOUNDER & FORMER SHAREHOLDER

ABRAHAM A. SNIDER

THOMAS A. SMITH (1951-2013)

This letter shall confirm settlement of the following Serling & Abramson, P.C. cases as to your client, Standard Fuel Engineering Corp, in the following amounts. The letter also serves to confirm those cases that are post-80 identified in column 3 below. If you disagree, please contact me immediately.

	<u>Plaintiff Name</u>	Settlement Amount	<u>Post-80</u>
1.	Barber, Dec., Larry	\$5,000	No
2.	Beatty, Dec., Earl	\$7,500	No
3.	Esper, Donald	\$2,500	No
4.	Henni, Dec., Carl	\$5,000	No
5.	Kachman, Dec., Nicholas	\$10,000	No
6.	McCaul, Dec., Robert	\$7,500	No
7.	Sarakun, Dec., William	\$10,000	Yes
8.	Walczyk, Dec., Richard	\$5,000	No
	GRAND TOTAL	\$52,500	

As we discussed, for Medicare purposes, as it relates to dates of first and last exposure to asbestos, it is further agreed that Plaintiff's Discovery Brochure accurately sets forth those time frames. If you disagree with this, please contact me immediately.

Please be advised that all of the Medicare eligible cases have been resolved pursuant to the Garretson Asbestos Malignancy Program or the Asbestos Non-Malignancy Global Resolution. We will post on Lexis/Nexis the final close letter once it is received.

It is further agreed that all the asbestosis settlements are limited to their claims for asbestosis, only. When preparing the releases please use the following language:

"This release is not intended to apply to claims for lung cancer, mesothelioma or other malignancies or death resulting from lung cancer, mesothelioma or other malignancies not alleged or described in the existing lawsuit resulting from <u>plaintiff's name</u> exposure to asbestos and <u>plaintiff's name and spouse's name</u> specifically do not release Standard Fuel Engineering Corp from liability for such future claims."

February 22, 2022 Page 2

It should be noted that according to Case Management Order, defendants are to submit releases to plaintiffs on or before 14 days after settlement agreement has been reached.

Please contact me immediately if this does not conform with our agreement.

SERLING & ABRAMSON, P.C.

Eric B. Abramson

EBA:dmr

ACKNOWLEDGEMENT:

I acknowledge the settlement of the January 2022 Trial Group as to Defendant, STANDARD FUEL ENGINEERING CORP, only, in the total amount of \$52,500 as outlined above.

\_\_\_\_\_\_ Dated: \_\_\_\_\_

Patrick M. Fishman

# EXHIBIT 2

----Original Message-----

From: Joel Waterstone <edordavid@aol.com>

To: patrick.fishman@kitch.com <patrick.fishman@kitch.com>

Sent: Tue, Dec 14, 2021 1:10 pm

Subject: Fwd: Spence Brothers Documentation

Hi Pat, Please find a few Spence Brothers user friendly documents! More to come.

----Original Message----

From: Erich Regier <eregier@serlinglaw.com>

To: Joey's Email <edordavid@aol.com>

Sent: Tue, Dec 14, 2021 1:02 pm

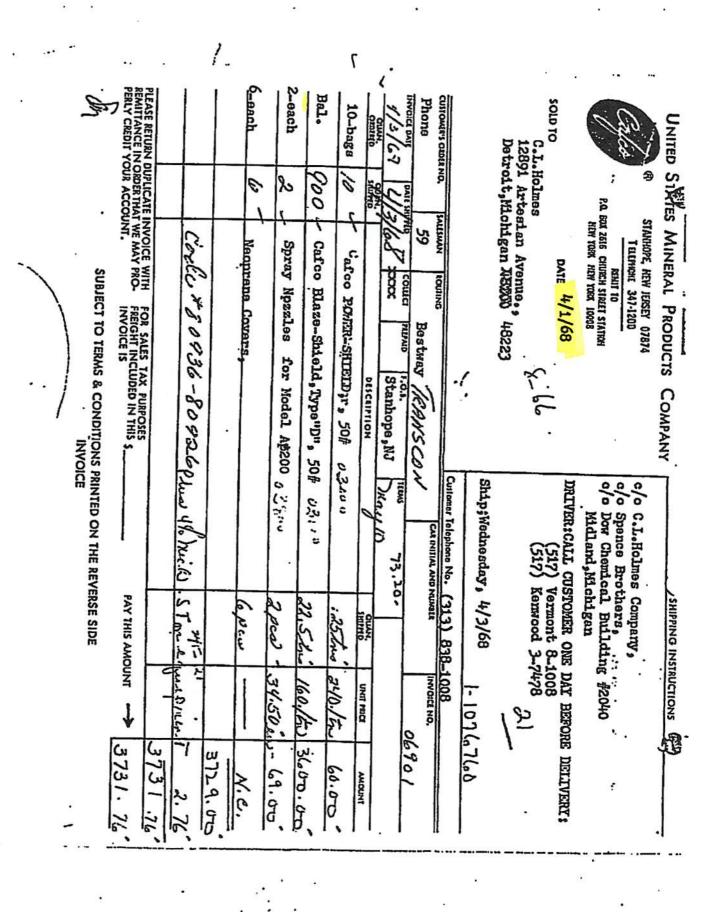
Subject: Spence Brothers Documentation

Spence Brothers Documentation

Erich M. Regier

Legal Investigator
Serling & Abramson, PC
280 N. Old Woodward Ave., St. 406
Birmingham, MI 48009
Office (248) 647-6966
Fax (248) 647-9630
email: eregier@serlinglaw.com

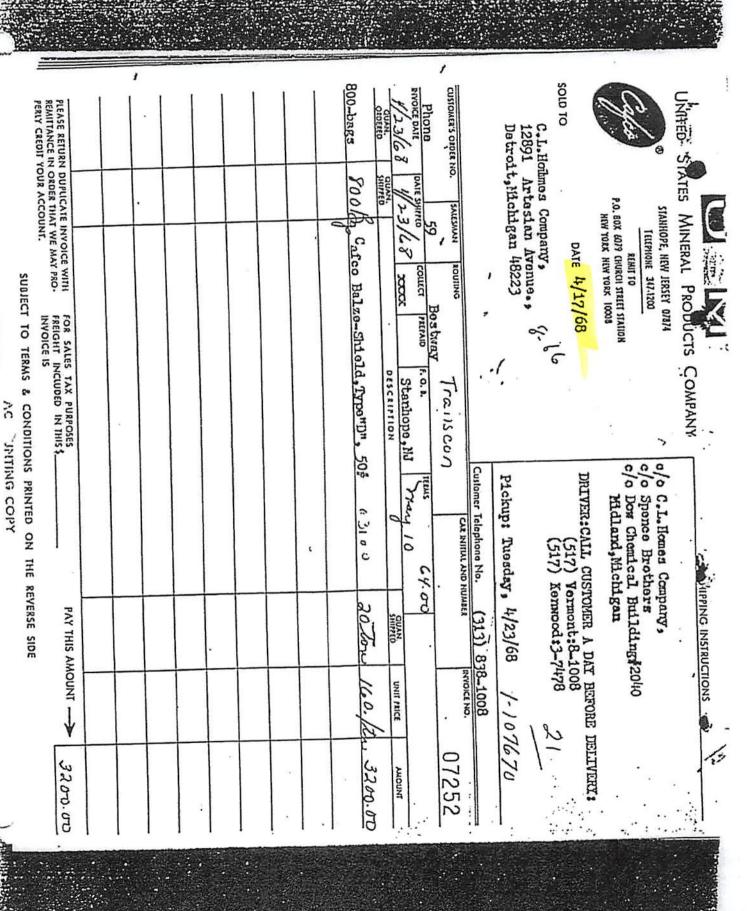
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# EXHIBIT 3

#### SERLING & ABRAMSON, P.C.

OF COUNSEL

KARL E. NOVAK

CHARLESTON, S. CAROLINA

THE LANIER LAW FIRM, P.C.

HOUSTON, TEXAS

PHILIP J. GOODMAN, P.C.

ERIC B. ABRAMSON ABRAHAM A. SNIDER THOMAS A. SMITH(1951-2013)

OF COUNSEL
MICHAEL B. SERLING
FOUNDER & FORMER SHAREHOLDER

Attorneys and Counselors at Law
280 NORTH OLD WOODWARD AVENUE, BUITE 406
BIRMINGHAM, MICHIGAN 48009

(248) 647-6966 • (BOO) 995-6991 FAX(248) 647-9630

DOWNRIVER OFFICE 6828 PARK AVENUE - ALLEN PARK, MI 48101

January 28, 2022

VIA E-MAIL
Patrick.Fishman@kitch.com

Patrick M. Fishman, Esq. Kitch, Drutchas, Wagner, et al One Woodward Ave., Suite 2400 Detroit, MI 48226

Re: Wa

Wayne County January 2022 Trial Cases

Dear Mr. Fishman:

This letter shall confirm settlement of the following Serling & Abramson, P.C. cases as to your client, Spence Brothers, in the following amounts. The letter also serves to confirm those cases that are post-80 identified in column 3 below. If you disagree, please contact me immediately.

	<u>Plaintiff Name</u>	Settlement Amount	Post-80
1.	Barber, Dec., Larry	\$9,500	No
2.	McCaul, Dec., Robert	\$9,500	No
	GRAND TOTAL	\$19,000	

As we discussed, for Medicare purposes, as it relates to dates of first and last exposure to asbestos, it is further agreed that Plaintiff's Discovery Brochure accurately sets forth those time frames. If you disagree with this, please contact me immediately.

Please be advised that all of the Medicare eligible cases have been resolved pursuant to the Garretson Asbestos Malignancy Program or the Asbestos Non-Malignancy Global Resolution. We will post on Lexis/Nexis the final close letter once it is received.

It should be noted that according to Case Management Order, defendants are to submit releases to plaintiffs on or before 14 days after settlement agreement has been reached.

Please contact me immediately if this does not conform with our agreement.

SERLING & ABRAMSON, P.C.

Eric B. Abramson

EBA:dmr



January 28, 2022 Page 2	
ACKNOWLEDGEMENT:	
I acknowledge the settlement of the January 2022 Tria in the total amount of \$19,000 as outlined above.	l Group as to Defendant, SPENCE BROTHERS, only,
Patrick M. Fishman	Dated:

# EXHIBIT 4



#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY BARBER, DEC.	
Plaintiff,	Case No. 20-006826-NP
V	Hon. Patricia P. Fresard
ACME INSULATION, et al.,	Holl. Patricia F. Flesard
Defendants.	
ABRAHAM A. SNIDER (P77521)	
ERIC B. ABRAMSON (P60949)	
SERLING & ABRAMSON, P.C.	
Attorneys for Plaintiff	
280 N. Old Woodward Avenue, Suite 406	
Birmingham, MI 48009	
(248) 647-6966	
The second secon	

# ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan,

ON:5	/13/2022	_
PRESENT HON.	PATRICIA FRESARD	
	CIRCUIT COURT JUDGE	_

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against Defendants: TRIAL GROUP DEFENDANTS - ACME Insulation, Inc.; Adience, Inc.; Banner Engineering & Sales, Inc.; Bechtel Corporation; Behler Young Company; Boomer Company; Burnham Corp.; BW/IP International, Inc.; Carver Pump Company; Cameron International Corporation; Cherne

LAW OFFICES
(RLING & ABRAMSON, P.C.
30 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

Chicago-Wilcox Manufacturing; Cleaver Brooks; Clow Contracting Corp.; Corporation/McWane, Inc.; Collins & Aikman; Daubert Chemical; Detroit Temperature Engineers, Inc.; Durametallic Corporation; Electrolux Home Products/Blaw Knox; Everlasting Valve Company; Exotic Rubber & Plastics Corp.; F.L. Smidth Dorr-Oliver (Fuller); Flowserve Corporation/Durco; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber; Gorman-Rupp Co.; Greene Tweed & Co.; Gusmer Enterprises, Inc.; Harlan Electric Company; Hoyt, Brumm and Link, Inc.; IU North America/Gage Company; IMO Industries; John E. Green Company; K&C Supply; Kerr Pump and Supply; Lennox Industries, Inc.; Milwaukee Valve; Nagle Pumps, Inc.; O.C. Keckley; Pfaudler, Inc.; Power Process Piping, Inc.; Radiator Specialty; Ric Wil, Inc.; Roger Zatkoff Co.; Roth Pump Company; Rust Engineering & Construction, Inc.; Ruthman Pump & Engineering, Inc.; Schad Boiler Setting Co.; Spence Brothers; Standard Electric; Standard Fuel Engineering; Standco; Sulzer Pumps (US) Inc.; Taco, Inc.; TKD, Inc.; U.S. Rubber/Uniroyal; Viking Pump, Inc.; Marley Wylain (Weil-McLain); Welton Rubber Company; William Powell Company; York Rubber Co. and Zurn Industries, Inc.; testimony having been taken on Wednesday, May 11, 2022;

Waivers having been filed and/or various parties failing to appear, and the Court being fully advised in the premises;

#### NOW, THEREFORE;

IT IS HEREBY ORDERED that LANA BARBER, Personal Representative for the Estate of LARRY BARBER, DEC., is empowered, authorized and directed to execute any documents necessary to settle claims with the above-referenced Defendants for the gross amount of FOUR HUNDRED TWENTY-ONE THOUSAND FIVE HUNDRED FIFTY AND 00/100 (\$421,550.00) DOLLARS including, but not limited to, a Satisfaction of Judgment.

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SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

IT IS HEREBY ORDERED that the class of persons who are or may be entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and shall consist of the following:

Spouse Lana Barber

Children Leryc Barber Jeremy Barber Jason Barber Brooke Doerr

Grandchildren Samantha Barber Mason Barber Adam Barber Lydia Barber

Minor Grandchildren Scott Doerr

Siblings
June Wallace
Wanda West
Marcia Wagner
Dewey Barber
Bruce Barber

THIRTY-EIGHT THOUSAND SIX HUNDRED TWENTY-THREE AND 22/100 (\$138,623.22)

DOLLARS and out-of-pocket expenses in the sum of FIVE THOUSAND SIX HUNDRED EIGHTY

AND 34/100 (\$5,680.34) DOLLARS are approved as reasonable and necessary for prosecution of this cause of action.

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SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

IT IS FURTHER ORDERED that the distribution of the net proceeds from the wrongful death settlements in the amount of TWO HUNDRED SEVENTY-SEVEN THOUSAND TWO HUNDRED FORTY-SIX AND 44/100 (\$277,246.44) DOLLARS shall be distributed as follows:

SEVEN HUNDRED AND 00/100 and 00/100 (\$700.00) DOLLARS shall be paid to Epiq (formerly known as the Garretson Resolution Group), for the enrollment fee into the Asbestos Malignancy Alternative Resolution Process (AMP) for Medicare clearance on asbestos settlement proceeds.

THREE HUNDRED FIFTY and 00/100 (\$350.00) DOLLARS shall be paid to Michael C. Terner, Esq., Guardian Ad Litem, as payment in full for services rendered on behalf of the minor heirs in within cause of action.

ONE HUNDRED EIGHT AND 00/100 (\$180.00) DOLLARS shall be paid to Serling & Abramson, P.C., as payment in full for probate services rendered to date.

The balance of TWO HUNDRED SEVENTY-SIX THOUSAND SIXTEEN AND 44/100 (\$276,016.44) DOLLARS shall be distributed as follows:

FIFTY-FIVE THOUSAND TWO HUNDRED THREE AND 28/100 (\$55,203.28) to Lana Barber.

FIFTY-FIVE THOUSAND TWO HUNDRED THREE AND 29/100 (\$55,203.29) to Leryc Barber.

FIFTY-FIVE THOUSAND TWO HUNDRED THREE AND 29/100 (\$55,203.29) to Jeremy Barber.

FIFTY-FIVE THOUSAND TWO HUNDRED THREE AND 29/100 (\$55,203.29) to Jason Barber.

FIFTY-FIVE THOUSAND TWO HUNDRED THREE AND 29/100 (\$55,203.29) to Brooke Doerr.

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

HUNDRED PERCENT (100%) of the settlement proceeds awarded to the Lana Barber, Leryc Barber, Jeremy Barber, Jason Barber and Brooke Doerr, as set forth above, into an interest-bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or other health insurance liens. Upon satisfaction of said lien, plaintiff's counsel shall distribute the remainder of settlement proceeds set aside herein as follows:

- > 20% to Lana Barber
- > 20% to Leryc Barber
- > 20% to Jeremy Barber
- > 20% to Jason Barber
- 20% to Brooke Doerr

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of TWO HUNDRED SEVENTY-SIX THOUSAND SIXTEEN AND 44/100 (\$276,016.44) DOLLARS, additional sums shall be paid as follows:

- > 20% to Lana Barber
- > 20% to Leryc Barber
- > 20% to Jeremy Barber
- 20% to Jason Barber
- 20% to Brooke Doerr

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

ACME Insulation; Adience, Inc.; Allison Transmission, Inc.; Ameron International Corporation; Arvinmeritor, Inc.; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; Bechtel Corporation; Behler-Young Co.; Blue Point Capital Partners, LLC; Boomer Company; Boone And Darr, Inc.; Bryan Steam Corporation; Bryan

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280 N, OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

Steam, LLC; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carlisle Companies, Inc.; Carver Pump Co.; Caterpiller, Inc.; Cherne Contracting Corporation; Chicago-Wilcox Manufacturing Company; Cleaver Brooks Company; Clow Corporation; CNH Industrial America LLC; Collins & Aikman Group, Inc.; Crosby Valve, LLC; Cummins, Inc.; Daubert Chemical Company, Inc.; Deere & Company; Detroit Temperature Engineers, Inc.; Durametallic Corporation; Edward Vogt Valve Co.; Electrolux Home Products, Inc.; Electrolux USA, Inc.; Escon Group, Inc.; Everlasting Valve Co.; Exotic Rubber & Plastic Corp; F.L. Smidth Dorr-Oliver Eimco Inc.; Flowserve Corporation; FMC Corporation; Ford Motor Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Gorman-Rupp Company; Gradall Industries, Inc.; Greene, Tweed & Company; Gusmer Enterprises, Inc.; Hammond Valve Corporation; Harlan Electric Company: Harrison Piping Supply Company: Hennessy Industries, Inc.: Herlihy Mid-Continent Company; Hoyt, Brumm And Link, Inc.; IMO Industries, Inc.; IU North America, Inc.; J-M Manufacturing Company, Inc.; John E. Green Company; Johnson Controls, Inc.; K & C Supply, Inc.; Kerr Pump And Supply, Inc.; Komatsu America Corp; Komatsu Mining Corp.; L&S Insulation Co., Inc.; Lennox Industries, Inc.; Limbach Company LLC; Marley-Wylain Company; McCord Corporation F/K/A McCord Gasket Company; McWane, Inc.; Midland Ross Corporation; Milwaukee Valve Company, Inc.; Nagle Pumps, Inc.; Nash Engineering Company; Navistar, Inc.; Neles-Jamesbury, Inc.; Netzsch Pumps North America, LLC; O.C. Keckley Company; Pfaudler, Inc.; Pneumo Abex Corporation; Power Process Piping, Inc.; Radiator Specialty Company; Ric-Wil, Inc.; Rockwell Automation, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Rust Engineering & Construction Inc.; Ruthman Pump & Engineering, Inc.; Satterlund Supply Company; Schad Boiler Setting Company; Sealite, Inc.; Spence

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM MI 48009

Brothers; Standard Electric Company; Standard Fuel Engineering Company; Standco Industries, Inc.; Stanley-Carter Company; Stone & Webster, Inc.; Sulzer Pumps (US) Inc.; Ta Company; Taco, Inc.; Tate Andale, Inc.; TKD, Inc.; Trans-Pumps, Inc.; Tuthill Corporation; Twin Disc, Incorporated; Uniroyal, Inc.; Viking Pump, Inc.; Volvo Construction Equipment North America, LLC; Watts Water Technologies, Inc.; Weil Pump Company; Weir Valves & Controls Usa, Inc.; Welton Rubber Company; White Consolidated Industries, Inc.; William Powell Company; Wilo USA LLC,; York International Corporation; York Rubber Company and Zurn Industries, LLC.

IT IS SO ORDERED.

/s/ Patricia Fresard 5/13/2022 CIRCUIT COURT JUDGE

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009



#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CAROL BEATTY, Personal Representative for the Estate of EARL BEATTY, DEC.	
Plaintiff,	Case No. 20-006060-NP
V	Usa Datricia D. Franced
ACME INSULATION, et al.,	Hon. Patricia P. Fresard
Defendants.	
ABRAHAM A. SNIDER (P77521) ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiff 280 N. Old Woodward Avenue, Suite 406 Birmingham, MI 48009 (248) 647-6966	

# ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a ses	sion of	said	Court	held	in	the	City	of
Detroit,	County	of W	/ayne,	State	of	Mic	higar	١,

ON:	5/1	.3/2022		
PRESENT	HON.	PATRICIA	FRESARD	
		CIRCUIT	COURT JUDGE	

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against Defendants: TRIAL GROUP DEFENDANTS - ACME Insulation, Inc.; Adience, Inc.; Banner Engineering & Sales, Inc.; Behler Young Company; Boomer Company; Burnham Corp.; BW/IP International, Inc.; Cameron International Corporation; Carver Pump Company; Champlain Cable Corporation;

 Chicago-Wilcox Manufacturing; Cleaver Brooks; Clow Corporation/McWane, Inc.; Collins & Aikman; Daubert Chemical; Detroit Temperature Engineers, Inc.; Electrolux Home Products/Blaw Knox; Everlasting Valve Company; Exotic Rubber & Plastics Corp.; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber; Greene Tweed & Co.; Harrison Piping Supply Co.; Hoyt, Brumm and Link, Inc.; IU North America/Gage Company; John E. Green Company; K&C Supply; Kerr Pump and Supply; Milwaukee Valve; Nagle Pumps, Inc.; NIBCO, Inc.; O.C. Keckley; Pfaudler, Inc.; Power Process Piping, Inc.; Radiator Specialty; Ric Wil, Inc.; Roger Zatkoff Co.; Roth Pump Company; Rust Engineering & Construction, Inc.; Schad Boiler Setting Co.; Standard Electric; Standco; Standard Fuel Engineering; Sulzer Pumps (US) Inc.; Taco, Inc.; Thermon, Inc.; TKD, Inc.; U.S. Rubber/Uniroyal; Viking Pump, Inc.; Marley Wylain (Weil-McLain); Weir Valves & Controls USA, Inc. and York Rubber Co.; testimony having been taken on Wednesday, Wednesday, May 11, 2022;

Waivers having been filed and/or various parties failing to appear, and the Court being fully advised in the premises;

### NOW, THEREFORE;

IT IS HEREBY ORDERED that Carol Beatty, Personal Representative for the Estate of Earl Beatty, DEC., is empowered, authorized and directed to execute any documents necessary to settle claims with the above-referenced Defendants for the gross amount of THREE HUNDRED THOUSAND THIRTY-FIVE FIFTY AND 00/100 (\$335,050.00) DOLLARS including, but not limited to, a Satisfaction of Judgment.

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

IT IS HEREBY ORDERED that the class of persons who are or may be entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and shall consist of the following:

Spouse Carol Beatty

Children Keith Beatty Sheila Beatty-Line Kraig Beatty

Grandchildren
Hailey Barton
Kelsey McConnell
Tyler Beatty
MacKenzie Line
Blake Beatty
Brooke Beatty

Minor Great-Grandchildren Yale McConnell Bowen McConnell Sophia Beatty

Siblings Kenneth Beatty

IT IS FURTHER ORDERED that attorney fees in the sum of ONE HUNDRED NINE THOUSAND FIVE HUNDRED ELEVEN AND 51/100 (\$109,511.51) DOLLARS and out-of-pocket expenses in the sum of SIX THOUSAND FIVE HUNDRED FIFTEEN AND 48/100 (\$6,515.48) DOLLARS are approved as reasonable and necessary for prosecution of this cause of action.

LAW OFFICES
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IT IS FURTHER ORDERED that the distribution of the net proceeds from the wrongful death settlements in the amount of TWO HUNDRED NINETEEN THOUSAND TWENTY-THREE AND 01/100 (\$219,023.01) DOLLARS shall be distributed as follows:

SEVEN HUNDRED AND 00/100 and 00/100 (\$700.00) DOLLARS shall be paid to Epiq (formerly known as the Garretson Resolution Group), for the enrollment fee into the Asbestos Malignancy Alternative Resolution Process (AMP) for Medicare clearance on asbestos settlement proceeds.

THREE HUNDRED FIFTY and 00/100 (\$350.00) DOLLARS shall be paid to Michael C. Terner, Esq., Guardian Ad Litem, as payment in full for services rendered on behalf of the minor heirs in within cause of action.

TWO HUNDRED SIXTY-SIX AND 80/100 (\$266.80) DOLLARS shall be paid to Serling & Abramson, P.C., as payment in full for probate services rendered to date.

The balance of TWO HUNDRED SEVENTEEN THOUSAND SEVEN HUNDRED SIX AND 21/100 (\$217,706.21) DOLLARS shall be distributed as follows:

TWO HUNDRED SEVENTEEN THOUSAND SEVEN HUNDRED SIX AND 21/100 (\$217,706.21) to Carol Beatty.

IT IS FURTHER ORDERED that plaintiff's counsel shall deposit ONE HUNDRED PERCENT (100%) of the settlement proceeds awarded to the Carol Beatty, as set forth above, into an interest-bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or other health insurance liens. Upon satisfaction of said lien, plaintiff's counsel shall distribute the remainder of settlement proceeds set aside herein as follows:

> 100% to Carol Beatty

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SUITE 406
BIRMINGHAM, MI. 48009

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of TWO HUNDRED SEVENTEEN THOUSAND SEVEN HUNDRED SIX AND 21/100 (\$217,706.21) DOLLARS, additional sums shall be paid as follows:

> 100% to Carol Beatty

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

IT IS FURTHER ORDERED that the following are dismissed with prejudice: ACME Insulation; Adience, Inc.; Ameron International Corporation; Auburn Manufacturing Company; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; Behler-Young Co.; Boomer Company; Bryan Steam Corporation; Bryan Steam, LLC; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carver Pump Co.; Champlain Cable Corporation; Chicago-Wilcox Manufacturing Company; Cleaver Brooks Company; Clow Corporation; Collins & Aikman Group, Inc.; Crosby Valve, LLC; Daubert Chemical Company, Inc.; Durametallic Corporation; Everlasting Valve Co.; Evert Asbestos Insulating Company; Exotic Rubber & Plastic Corp.; F.L. Smidth Dorr-Oliver Eimco Inc.; Ford Motor Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Gorman-Rupp Company; Greene, Tweed & Company; Grinnell LLC; Hammond Valve Corporation; Harrison Piping Supply Company; IU North America, Inc.; J-M Manufacturing Company, Inc.; John E. Green Company; Johnson Controls, Inc.; K & C Supply, Inc.; Kerr Pump And Supply, Inc.; L&S Insulation Co., Inc.; Lennox Industries, Inc.; Marley-Wylain Company; McWane, Inc.; Midland Ross Corporation; Milwaukee Valve Company, Inc.; MW Custom Papers, LLC; Nagle Pumps, Inc.; Neles-Jamesbury, Inc.; Netzsch Pumps North America, LLC; NIBCO, Inc.; O.C. Keckley Company; Pfaudler, Inc.;

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Power Process Piping, Inc.; Radiator Specialty Company; Ric-Wil, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Ruthman Pump & Engineering, Inc.; Satterlund Supply Company; Schad Boiler Setting Company; Sealite, Inc.; Standard Electric Company; Standard Fuel Engineering Company; Standard Industries, Inc.; Stanley-Carter Company; Sulzer Pumps (Us) Inc.; Ta Company; Taco, Inc.; Tate Andale, Inc.; Thermon, Inc.; TKD, Inc.; Trans-Pumps, Inc.; Tuthill Corporation; Uniroyal, Inc.; Viking Pump, Inc.; Watts Water Technologies, Inc.; Weil Pump Company; Weir Valves & Controls Usa, Inc.; York International Corporation; York Rubber Company and Zurn Industries, LLC.

IT IS SO ORDERED.

/s/ Patricia Fresard 5/13/2022

CIRCUIT COURT JUDGE

LAW OFFICES
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#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS HENNI, Personal Representative for the Estate of CARL HENNI, DEC.	
Plaintiff,	Case No. 20-007746-NP
V	Hon. Patricia P. Fresard
ABITIBI CONSOLIDATED SALES CORPORATION, et al.,	Tion. Faction 11 February
Defendants.	/
ABRAHAM A. SNIDER (P77521)	-
ERIC B. ABRAMSON (P60949)	
SERLING & ABRAMSON, P.C.	
Attorneys for Plaintiff 280 N. Old Woodward Avenue, Suite 406	
Birmingham, MI 48009	
(248) 647-6966	
	1

### ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan,

ON:	5/13/2022	
PRESENT HON	PATRICIA FRESARD	
	CIRCUIT COURT JUDGE	_

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against Defendants: TRIAL GROUP DEFENDANTS - A.W. Chesterton Co.; ACME Insulation, Inc.; Adience, Inc.; Amchem/Union Carbide; Arkema; Armstrong International, Inc.; Armstrong Pumps, Inc.; Baltimore Ennis; Banner Engineering & Sales, Inc.; BASF Corporation; Boomer Company; Burnham Corp.; BW/IP

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International, Inc.; Cameron International Corporation; Cherne Contracting Corp.; Cleaver Brooks; Cooper Industries/McGraw; Crane Company; Daubert Chemical; Dow Chemical; Durametallic Corporation; E.I. Du Pont; Eaton Corporation; Edward Vogt Valve Company; Everlasting Valve Company; F.B. Wright Co.; Flowserve Corporation/Durco; FMC Corporation; Ford Motor Co.; Foster Wheeler Energy Co.; General Electric Co.; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber; Goulds Pumps, Inc.; Greene Tweed & Co.; Harrison Piping Supply Co.; IU North America/Gage Company; IMO Industries; International Paper Company; ITT Industries; K&C Supply; Marathon Oil Company; McMaster Carr Supply; Metropolitan Life Ins.; Midland Ross; Nagle Pumps, Inc.; New Coleman Holdings, Inc.; Parker Hannifin; Rex Roto Corporation; Ric Wil, Inc.; Riley Power, Inc.; Roger Zatkoff Co.; Rust Engineering & Construction, Inc.; Rust Industrial, Inc.; S.D. Warren; Satterlund Supply Company; Schad Boiler Setting Co.; Seaway Mechanical Contractors, Inc.; Socony Mobil Co., Inc.; Square D Company; Standard Fuel Engineering; Stanley Carter; Sterling Fluid Systems (USA), Inc.; Sulzer Pumps (US) Inc.; Thiem Corp.; U.S. Rubber/Uniroyal; Union Pumps Co.; Viacom; Welton Rubber Company; William Powell Company; York International and York Rubber Co. BANKRUPT ENTITIES: A.P. Green; Armstrong World; Babcock & Wilcox; Celotex; Eagle Picher; Johns Manville; Owens Corning; testimony having been taken on Wednesday, May 11, 2022;

Waivers having been filed and/or various parties failing to appear, and the Court being fully advised in the premises;

NOW, THEREFORE;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
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IT IS HEREBY ORDERED that Gladys Henni, Personal Representative for the

Estate of Carl Henni, DEC., is empowered, authorized and directed to execute any

documents necessary to settle claims with the above-referenced Defendants for the

gross amount of TWO HUNDRED FORTY-FOUR THOUSAND FIVE HUNDRED FORTY-THREE

AND 27/100 (\$244,543.27) DOLLARS including, but not limited to, a Satisfaction of

Judgment.

IT IS HEREBY ORDERED that the class of persons who are or may be

entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and

shall consist of the following:

Spouse

Gladys Henni

IT IS FURTHER ORDERED that attorney fees in the sum of SEVENTY-EIGHT

THOUSAND SIX HUNDRED TWENTY-SIX AND 60/100 (\$78,626.60) DOLLARS and out-of-

pocket expenses in the sum of SEVEN THOUSAND FOUR HUNDRED FIFTY-TWO AND 22/100

(\$7,452.22) DOLLARS are approved as reasonable and necessary for prosecution of this

cause of action.

IT IS FURTHER ORDERED that the distribution of the net proceeds from

the wrongful death settlements in the amount of ONE HUNDRED FIFTY-EIGHT THOUSAND

FOUR HUNDRED SIXTY FOUR AND 45/100 (\$158,464.45) DOLLARS shall be distributed as

follows:

FOUR HUNDRED FIFTY AND 00/100 and 00/100 (\$450.00) DOLLARS shall be

paid to Epiq (formerly known as the Garretson Resolution Group), for the enrollment fee

into the Asbestos Malignancy Alternative Resolution Process (AMP) for Medicare

clearance on asbestos settlement proceeds.

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ONE HUNDRED EIGHT AND 05/100 (\$108.05) DOLLARS shall be paid to Serling & Abramson, P.C., as payment in full for probate services rendered to date.

The balance of ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED SIX AND 40/100 (\$157,906.40) DOLLARS shall be distributed as follows:

ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED SIX AND 40/100 (\$157,906.40) to Gladys Henni.

IT IS FURTHER ORDERED that plaintiff's counsel shall deposit ONE HUNDRED PERCENT (100%) of the settlement proceeds awarded to the Gladys Henni, as set forth above, into an interest-bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or other health insurance liens. Upon satisfaction of said lien, plaintiff's counsel shall distribute the remainder of settlement proceeds set aside herein as follows:

> 100% to Gladys Henni

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED SIX AND 40/100 (\$157,906.40) DOLLARS, additional sums shall be paid as follows:

> 100% to Gladys Henni

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

A.W. Chesterton Company; Abitibi Consolidated Sales Corporation; ACME Insulation; Adience, Inc.; Alliance Machine Company; Amcord, Inc.; Amdura, LLC; American Electric Power Service Corporation; American Standard, Inc.; Arkema, Inc.; Armstrong

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International, Inc.; Armstrong Pumps, Inc.; Auburn Manufacturing Company; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; BASF Corporation; Bayer Cropscience, Inc.; Bechtel Corporation; Boomer Company; Bryan Steam Corporation; Bryan Steam, LLC; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carrier Corporation; Carver Pump Co.; Champlain Cable Corporation; Cherne Contracting Corporation; Cleaver Brooks Company; Cliffs Natural Resources Inc.; Clow Corporation; Combustion Engineering; Compudyne Corporation; Cooper Industries LLC; Crane Co.; Crosby Valve, LLC; Daubert Chemical Company, Inc.; DCO LLC; Dow Chemical Company; Dow Chemical Delaware Corporation; Durametallic Corporation; E.I. Du Pont De Nemours & Company; Eaton Corporation; Edward Vogt Valve Co.; Electrolux USA, Inc.; Elof Hansson USA Inc.; Entergy Nuclear Palisades, LLC; Escon Group, Inc.; Everlasting Valve Co.; F.B. Wright Company; F.L. Smidth Dorr-Oliver Eimco Inc.; Flowserve Corporation; Flowserve US Inc.; FMC Corporation; Ford Motor Company; Foseco, Inc.; Foster Wheeler Energy Corporation; General Electric Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Goulds Pumps, Incorporated; Greene, Tweed & Company; Grinnell LLC; Gusmer Enterprises, Inc.; Harlan Electric Company; Harrison Piping Supply Company; Honeywell International, Inc.; Howard Electric Company; Hydronic Supply & Engineering, Inc.; IMO Industries, Inc.; Industrial Holdings Corporation; Ingersoll-Rand Company; International Paper Company; ITT Industries, Inc.; IU North America, Inc.; J-M Manufacturing Company, Inc.; John E. Green Company; Johnson Controls, Inc.; K & C Supply, Inc.; K. L. McCoy and Associates, Inc.; Kelsey Hayes Company; Kerr Pump and Supply, Inc.; Kimberley-Clark Global Sales, LLC; Krones, Inc.; Limbach Company LLC; Marathon Petroleum Company LP; Marley-Wylain Company; McMaster-Carr Supply Company; McWane, Inc.; Metropolitan Life Insurance Company;

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BIRMINGHAM, MI 18009

Michigan Valve and Foundry Corporation; Midland Ross Corporation; Midwest Valve & Fitting Company; Morgan Engineering Systems, Inc.; MW Custom Papers, LLC; Nagle Pumps, Inc.; Nash Engineering Company; Neenah Paper, Inc.; New Coleman Holdings, Inc.; Parker-Hannifin Corporation; Pfizer, Inc.; Pharmacia & Upjohn LLC; Pharmacia LLC; Power Process Piping, Inc.; R. L. Deppmann Company; Radiator Specialty Company; Reunion Industries, Inc.; Rex/Roto Corporation; Ric-Wil, Inc.; Riley Power, Inc.; Rockwell Automation, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Rust Engineering & Construction Inc.; Rust International, Inc.; Ruthman Pump & Engineering, Inc.; S.D. Warren Company; Satterlund Supply Company; Schad Boiler Setting Company; Seaway Mechanical Contractors, Incorporated; Shaw-Winkler, Inc.; Socony Mobil Company, Inc.; Spence Brothers; Square D Company; Standard Fuel Engineering Company; Stanley-Carter Company; Sterling Fluid Systems (USA), LLC; Stone & Webster, Inc.; Sulzer Pumps (US) Inc.; Sunoco, Inc (R&M); Ta Company; Taco, Inc.; Terex Corporation; Thiem Corporation; Trans-Pumps, Inc.; Union Carbide Chemicals and Plastics Company, Inc.; Union Pumps Company; Uniroyal, Inc.; Velan Valve Corp.; Viacom International, Inc.; Viking Pump, Inc.; W. J. O'Neil Co.; W. M. Sprinkman, LLC; Warren Pumps, LLC; Wayne/Scott Fetzer Company; WEC Energy Group Inc.; Weir Valves & Controls USA, Inc.; Welton Rubber Company; Westrock Company; William Powell Company; Wolverine Power Supply Cooperative, Inc.; York International Corporation and York Rubber Company.

IT IS SO ORDERED.

SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406

LAW OFFICES

BIRMINGHAM, MI 48009

(248) 647-6966

/s/ Patricia Fresard 5/13/2022

CIRCUIT COURT JUDGE



#### STATE OF MICHIGAN

### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Robert Kachman, Personal Representative for the Estate of NICHOLAS KACHMAN, DEC.

Plaintiffs,

Case No. 20-005638 NP

٧

Hon. Patricia P. Fresard

ADIENCE, INC., et al,

Defendant.

ABRAHAM A. SNIDER (P77521)
ERIC B. ABRAMSON (P60949)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 North Old Woodward Avenue
Suite 406
Birmingham MI 48009
(248) 647-6966

## ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan,

ON:	5/13/2022	
OI1		

PRESENT HON. PATRICIA FRESARD

### CIRCUIT COURT JUDGE

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against Defendants: Adience, Inc.; Armstrong Pumps, Inc.; Boomer Company; BW/IP International, Inc.; Cleaver Brooks; Cooper

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:80 N. OLD WOODWARD AVE.

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Industries/McGraw; Daubert Chemical; Dow Chemical; Durametallic Corporation;

Everlasting Valve Company; F.B. Wright Co.; Goodall Rubber Company; Goodyear Tire

& Rubber; Greene Tweed & Co.; IU North America/Gage Company; K&C Supply;

Michigan Tile & Marble Co.; Midland Ross; New Coleman Holdings, Inc.; Parker

Hannifin, Power Process Piping, Inc.; Rex Roto Corporation; Roger Zatkoff Co.; Schad

Boiler Setting Co.; Seaway Mechanical Contractors, Inc.; Singer Safety Co.; Standard

Fuel Engineering; Stanley Carter; Thermo Fisher Scientific, US Rubber/Uniroyal; Union

Pumps Co.; and York Rubber Co. and testimony having been taken on Wednesday, May

11, 2022.

Waivers having been filed and/or various parties failing to appear, and the

Court being fully advised in the premises;

NOW, THEREFORE;

IT IS HEREBY ORDERED that Robert Kachman, Personal Representative

for the Estate of Nicholas Kachman, Deceased, is empowered, authorized and directed

to execute any documents necessary to settle claims with the above-referenced

Defendants for the gross amount of ONE HUNDRED THIRTY-THREE THOUSAND SEVEN

HUNDRED FIFTY and 00/100 (\$133,750.00) DOLLARS including, but not limited to, a

Satisfaction of Judgment.

IT IS HEREBY ORDERED that the class of persons who are or may be

entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and

shall consist of the following:

SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

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### Spouse

Isabel Kachman

### Children

Ann Tobin Robert Kachman Cindy Asaro Teresa Hauser Alice Kachman

### Grandchildren

Nick Tobin Lisa Tobin Brittany Russell Brandon Hauser

### Great-Grandchildren

Nicholas Tobin

### Minor Great-Grandchildren

Molly Tobin Hanna Tobin Jack Parrish Ava Parrish Henry Russell Isabel Russell

### Siblings

James Kachman

IT IS FURTHER ORDERED that attorney fees in the sum of FORTY-ONE THOUSAND FIVE HUNDRED THIRTY-NINE and 94/100 (\$41,539.94) DOLLARS and out-of-pocket expenses in the sum of NINE THOUSAND ONE HUNDRED THIRTY and 19/100 (\$9,130.19) DOLLARS are approved as reasonable and necessary for prosecution of this cause of action.

IT IS FURTHER ORDERED that the distribution of the net proceeds from the wrongful death settlements in the amount of EIGHTY-THREE THOUSAND SEVENTY-NINE and 87/100 (\$83,079.87) DOLLARS shall be distributed as follows:

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behalf of the minor heir in within cause of action.

THREE HUNDRED FIFTY and 00/100 (\$350.00) DOLLARS shall be paid to Michael Terner, Esq., Guardian Ad Litem, as payment in full for services rendered on

SEVEN HUNDRED and 00/100 (\$700.00) DOLLARS shall be paid to Epic, f/k/a Garretson Resolution Group, as payment in full for services rendered for obtaining Medicare clearance on any potential Medicare and/or other health insurance liens.

TWO HUNDRED TEN and 72/100 (\$210.72) DOLLARS shall be paid to Serling & Abramson, P.C. as payment in full for probate matters.

The balance of EIGHTY-ONE THOUSAND EIGHT HUNDRED NINETEEN and 15/100 (\$81,819.15) DOLLARS shall be distributed as follows:

EIGHTY-ONE THOUSAND EIGHT HUNDRED NINETEEN and 15/100 DOLLARS to Isabel Kachman.

HUNDRED PERCENT (100%) of the settlement proceeds awarded to Isabel Kachman, as set forth above, into an interest-bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or Medicare Part C and/or health insurance claims of lien. In the event that no Medicare or other insurance allocation is necessary, upon written clearance, plaintiff's counsel shall distribute the settlement proceeds and interest earned ONE HUNDRED PERCENT (100%) to Isabel Kachman, forthwith. In the event that Medicare claims a lien to any portion of the settlement proceeds as set aside herein, plaintiff's counsel shall satisfy Medicare's lien ONE HUNDRED PERCENT (100%) from the amounts awarded to Isabel

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Kachman. Upon satisfaction of said lien, plaintiff's counsel shall distribute the remainder of the settlements set aside herein, ONE HUNDRED PERCENT (100%) to Isabel Kachman.

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of EIGHTY-ONE THOUSAND EIGHT HUNDRED NINETEEN and 15/100 (\$81,819.15) DOLLARS, additional sums shall be paid as following: 100% to Isabel Kachman.

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

IT IS FURTHER ORDERED that the following are dismissed with prejudice: Adience, Inc.; AFC-Holcroft, LLC; Armstrong Pumps, Inc.; Avocet Enterprises, Inc.; Baltimore Ennis Land Company, Inc.; Beazer East, Inc.; The Boomer Company; BW/IP, Inc.; Cleaver Brooks Company; Columbus McKinnon Corp.; Cooper Industries, LLC; Copes-Vulcan; Daubert Chemical Company, Inc.; Dezurik, Inc.; Dow Chemical Delaware Corporation; The Dow Chemical Company; Durametallic Corporation; Everlasting Valve Co.; F.B. Wright Company; Flowserve Corporation; Foseco, Inc.; Gardner Denver, Inc.; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Greene, Tweed & Company; IU North America, Inc.; John Crane, Inc.; John E. Green Company; Johnson Controls, Inc.; Joy Global Surface Mining, Inc.; K&C Supply, Inc.; Michigan Tile & Marble Co.; Midland Ross Corporation; New Coleman Holdings, Inc.; Parker-Hannifin Corporation; Power Process Piping, Inc.; Radiator Specialty Company; Reunion Industries, Inc.; Rex-Roto Corporation; Roger Zatkoff Company; Rust International, Inc.; The Sager Corporation; Satterlund Supply Company; Schad Boiler

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Setting Company; Seaway Mechanical Contractors, Incorporated; Siemens Corporation; Singer Safety Company; Standard Fuel Engineering Company; The Stanley-Carter Company; Thermo Fisher Scientific, Inc.; Union Pumps Company; Uniroyal, Inc.; Warren Pumps, LLC; and York Rubber Company

/s/ Patricia Fresard 5/13/2022 HON. PATRICIA P. FRESARD CIRCUIT COURT JUDGE

LAW OFFICES
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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009



#### STATE OF MICHIGAN

### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT McCAUL, Personal
Representative for the
Estate of ROBERT McCAUL, DEC
Plaintiffs

Case No. 20-008150 NP

Hon. Patricia P. Fresard

ACME INSULATION, et al,

Defendant.

ABRAHAM A. SNIDER (P77521)
ERIC B. ABRAMSON (P60949)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 North Old Woodward Avenue
Suite 406
Birmingham MI 48009
(248) 647-6966

## ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan,

ON:	5/13/2022	
PRESENT HON.	PATRICIA FRESARD	
	CIRCUIT COURT JUDGE	

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against Defendants: ACME Insulation, Inc.; Adience, Inc.; Baltimore Ennis; Banner Engineering & Sales, Inc.; Bechtel Corporation;

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Behler Young Company; Boomer Company; Burnham Corp.; BW/IP International, Inc.; Cameron International Corporation; Carver Pump Company; Cherne Contracting Corp.; Chicago-Wilcox Manufacturing; Cleaver Brooks; Clow Corporation/McWayne, Inc.; Collins & Aikman; Everlasting Valve Company; Exotic Rubber & Plastics Corp.; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber; Harlan Electric Company; Harrison Piping Supply Co.; IU North America/Gage Company; John E. Green Company; K&C Supply; Kerr Pump & Supply; Milwaukee Valve; MW Custom Papers, LLC; Nagle Pumps, Inc.; NIBCO, Inc.; O.C. Keckley; Power Process Piping, Inc.; Radiator Specialty; Ric Wil, Inc.; Roger Zatkoff Co.; Roth Pump Company; Rust Engineering & Construction Inc.; Schad Boiler Setting Co.; Spence Brothers; Standard Electric; Standard Fuel Engineering; Stanley Carter; Sulzer Pumps (US) Inc.; Taco, Inc.; Thermon, Inc.; TKD, Inc.; U.S. Rubber/Uniroyal; Velvan Valve Corp.; Viking Pump, Inc.; Warren Pump; Marley Wylain (Weil-McLain); Weir Valves & Controls USA, Inc.; York Rubber Co.; and Zurn Industries, Inc. and testimony having been taken on Wednesday, May 11, 2022.

Waivers having been filed and/or various parties failing to appear, and the Court being fully advised in the premises;

### NOW, THEREFORE;

IT IS HEREBY ORDERED that Scott McCaul, Personal Representative for the Estate of Robert McCaul, Deceased, is empowered, authorized and directed to execute any documents necessary to settle claims with the above-referenced Defendants for the gross amount of THREE HUNDRED SIXTY-THREE THOUSAND FIFTY and 00/100 (\$363,050.00) DOLLARS including, but not limited to, a Satisfaction of

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Judgment.

IT IS HEREBY ORDERED that the class of persons who are or may be entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and shall consist of the following:

Spouse Pauline McCaul

Children Scott McCaul Suzanne Fetters Lori Billingham Joel McCaul

Grandchildren Elyse McCaul Jason Onstott Joshua Onstott Kent Billingham Daniel McCaul Garrett McCaul

Great-Grandchild Arys Onstott (adult)

Minor Great-Grandchildren
Justice Onstott
Jager Onstott
Tristen McCaul
Carter McCaul
Gabriel Markiewicz
Dylan Onstott
Jameson Onstott

Siblings Jerry McCaul

IT IS FURTHER ORDERED that attorney fees in the sum of ONE HUNDRED NINETEEN THOUSAND ONE HUNDRED THIRTY-FIVE and 87/100 (\$119,135.87) DOLLARS and out-of-pocket expenses in the sum of FIVE THOUSAND SIX HUNDRED FORTY-TWO

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and 38/100 (\$5,642.38) DOLLARS are approved as reasonable and necessary for prosecution of this cause of action.

IT IS FURTHER ORDERED that the distribution of the net proceeds from the wrongful death settlements in the amount of TWO HUNDRED THIRTY-EIGHT THOUSAND NINE HUNDRED TWENTY-ONE and 75/100 (\$238,921.75) DOLLARS shall be distributed as follows:

THREE HUNDRED FIFTY and 00/100 (\$350.00) DOLLARS shall be paid to Michael Terner, Esq., Guardian Ad Litem, as payment in full for services rendered on behalf of the minor heir in within cause of action.

SEVEN HUNDRED and 00/100 (\$700.00) DOLLARS shall be paid to Epiq, f/k/a Garretson Resolution Group, as payment in full for services rendered for obtaining Medicare clearance on any potential Medicare and/or other health insurance liens.

TWO HUNDRED SIXTY-SIX and 80/100 (\$266.80) DOLLARS shall be paid to Serling & Abramson, P.C. as payment in full for probate matters.

The balance of TWO HUNDRED THIRTY-SIX THOUSAND NINE HUNDRED FIFTY-FOUR and 95/100 shall be distributed as follows:

TWO HUNDRED THIRTY-SIX THOUSAND NINE HUNDRED FIFTY-FOUR and 95/100 to Pauline McCaul

HUNDRED PERCENT (100%) of the settlement proceeds awarded to Pauline McCaul as set forth above, into an interest bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or Medicare Part C and/or health insurance claims of lien. In the event that no Medicare

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or other insurance allocation is necessary, upon written clearance, plaintiff's counsel shall distribute the settlement proceeds and interest earned ONE HUNDRED PERCENT (100%) to Pauline McCaul, forthwith. In the event that Medicare claims a lien to any portion of the settlement proceeds as set aside herein, plaintiff's counsel shall satisfy Medicare's lien ONE HUNDRED PERCENT (100%) from the amounts awarded to Pauline McCaul. Upon satisfaction of said lien, plaintiff's counsel shall distribute the remainder of the settlements set aside herein, ONE HUNDRED PERCENT (100%) to Pauline McCaul.

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of TWO HUNDRED THIRTY-SIX THOUSAND NINE HUNDRED FIFTY-FOUR and 95/100 (\$236,954.95) DOLLARS, additional sums shall be paid as following: 100% to Pauline McCaul

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

Acme Insulation; Adience, Inc.; Ameron International Corporation; Auburn Manufacturing Company; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; Bechtel Corporation; Behler-Young Co.; The Boomer Company; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carver Pump Co.; Cherne Contracting Corporation; Chicago-Wilcox Manufacturing Company; Cleaver Brooks Company; Clow Corporation; Collins & Aikman Group, Inc.; Cooper Industries, LLC; Crosby Valve, LLC; Daubert Chemical Company, Inc.; Durametallic Corporation; Edward Vogt Valve Co.; Electrolux USA, Inc.; Escon Group, Inc.; Everlasting Valve Co.;

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Exotic Rubber & Plastic Corp.; F.L. Smidth Door-Oliver Eimco Inc.; Ford Motor Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; The Gorman-Rupp Company; Hammond Valve Corporation; Harlan Electric Company; Harrison Piping Supply Company; IU North America, Inc.; J-M Manufacturing Company, Inc.; John E. Green Company; Johnson Controls, Inc.; K&C Supply, Inc.; O.C. Keckley Company; Kerr Pump and Supply, Inc.; L&S Insulation Co. Inc; The Marley-Wylain Company; McWane, Inc.; Midland Ross Corporation; Milwaukee Valve Company, Inc.; MW Custom Papers, LLC; Nagle Pumps, Inc.; The Nash Engineering Company; Neles-Jamesbury, Inc.; Netzsch Pumps North America, LLC; NIBCO, Inc.; Power Process Piping, Inc.; Radiator Specialty Company; Ric-Wil, Inc.; Rockwell Automation, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Rust Engineering & Construction, Inc.; Ruthman Pump & Engineering, Inc.; Satterlund Supply Company; Schad Boiler Setting Company; Sealite, Inc.; Seaway Mechanical Contractors, Incorporated; Spence Brothers; Standard Electric Company; Standard Fuel Engineering Company; Standco Industries, Inc.; The Stanley-Carter Company; Stone & Webster, Inc.; Sulzer Pumps (US) Inc.; Taco, Inc.; Tate Andale, Inc.; Thermon, Inc.; TKD, Inc.; Trans-Pumps, Inc.; Tuthill Corporation; Uniroyal, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Warren Pumps, LLC; Watts Water Technologies, Inc.; Weil Pump Company; Weir Valves & Controls USA, Inc.; Wilo USA LLC; York International Corporation, York Rubber Company; and Zurn Industries, LLC.

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/s/ Patricia Fresard 5/13/2022

HON. PATRICIA P. FRESARD CIRCUIT COURT JUDGE





### STATE OF MICHIGAN

### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE WALCZYK, Personal Representative for the Estate of RICHARD WALCZYK, DEC.

Plaintiff.

Case No. 20-012537-NP

Hon. Patricia P. Fresard

ABB, INC., et al,

Defendants.

ABRAHAM A. SNIDER (P77521) ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiff 280 North Old Woodward Avenue Suite 406 Birmingham MI 48009 (248) 647-6966

### ORDER FOR AUTHORITY TO SETTLE CLAIMS AND DISTRIBUTE WRONGFUL DEATH CLAIM PROCEEDS (PARTIAL RECOVERY)

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan,

5/13/2022 ON:

PRESENT HON.

PATRICIA FRESARD

CIRCUIT COURT JUDGE

The Court having considered Plaintiff's Motion for Authority to Settle Claims and Distribute Wrongful Death proceeds against the following Defendants:

Trial Group Defendants: ABB, Inc.; Adience, Inc.; Armstrong International, Inc;

Armstrong Pumps, Inc.; A.W. Chesterton Company; Baltimore Ennis Land Company,

Inc.; BASF Corporation; The Boomer Company; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carrier Corporation; Champlain Cable Corporation; Cleaver Brooks Company; Clow Corporation (McWane, Inc.); Cooper Industries LLC; Crane Co.: Daubert Chemical Company, Inc.: Detroit Temperature Engineers, Inc.; Durametallic Corporation; Eaton Corporation; Edward Vogt Valve Co.; Everlasting Valve Co.; F.B. Wright Company; F.L. Smidth Dorr-Oliver Eimco Inc.; Flowserve Corporation; FMC Corporation; Foster Wheeler Energy Corporation; General Electric Company: Goodall Rubber Company: Goodrich Corporation; Goodyear Tire & Rubber Company; Goulds Pumps, Incorporated; Greene, Tweed & Company; Grinnell LLC; Harrison Piping Supply Company; Hoyt, Brumm and Link, Inc.; IMO Industries, Inc.; ITT Industries, Inc.; IU North America, Inc.; K & C Supply, Inc.; Marathon Petroleum Company LP; McMaster-Carr Supply Company; Midland Ross Corporation; Nagle Pumps, Inc.; Parker-Hannifin Corporation: Power Process Piping, Inc.; Radiator Specialty Company; Ric-Wil, Inc.; Riley Power, Inc.; Roger Zatkoff Company; Rust Engineering & Construction, Inc.; Rust International, Inc.; Satterlund Supply Company; Schad Boiler Setting Company; Seaway Mechanical Contractors, Incorporated; Square D Company; Standard Fuel Engineering Company; The Stanley-Carter Company; Sterling Fluid Systems (USA), LLC; Sulzer Pumps (US) Inc.; Taco, Inc.; Thiem Corporation; Union Carbide Chemicals and Plastics Company, Inc.; Union Pumps Company; Uniroyal, Inc.; Viacom International, Inc.; Welton Rubber Company; The William Powell Company; York International Corporation; Bankrupt Entities: A.P. Green; Babcock & Wilcox; Celotex; Eagle Picher; Fibreboard; Johns Manville; Keene; Owens Corning; Pittsburgh Corning; Raytech; T&N, and testimony

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having been taken on Wednesday, May 11, 2022;

Waivers having been filed and/or various parties failing to appear, and the Court being fully advised in the premises;

NOW, THEREFORE;

IT IS HEREBY ORDERED that Elaine Walczyk, Personal Representative for the Estate of Richard Walczyk, Deceased, is empowered, authorized, and directed to execute any documents necessary to settle claims with the above-referenced Defendants for the gross amount of TWO HUNDRED TWENTY-EIGHT THOUSAND THREE HUNDRED FIFTY-TWO AND 82/100 (\$228,352.82) DOLLARS including, but not limited to, a Satisfaction of Judgment.

IT IS HEREBY ORDERED that the class of persons who are or may be entitled to damages as defined in MCLA 600.2922(3), as amended, shall be closed, and shall consist of the following:

Spouse

Elaine Walczyk

Child

Richard Walczyk, Jr.

IT IS FURTHER ORDERED that attorney fees in the sum of SEVENTY-THREE THOUSAND SIX HUNDRED SIXTY-SIX AND 74/100 (\$73,666.74) DOLLARS and out-of-pocket expenses in the sum of SIX THOUSAND FIFTY-FOUR AND 86/100 (\$6,054.86) DOLLARS are approved as reasonable and necessary for prosecution of this cause of action.

IT IS FURTHER ORDERED that the distribution of the net proceeds from the wrongful death settlements in the amount of ONE HUNDRED FORTY-EIGHT

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THOUSAND SIX HUNDRED THIRTY-ONE AND 22/100 (\$148,631.22) DOLLARS shall be distributed as follows:

FOUR HUNDRED FIFTY AND 00/100 (\$450.00) DOLLARS shall be paid to Epiq (formerly known as the Garretson Resolution Group), for the enrollment fee into the Asbestos Malignancy Alternative Resolution Process (AMP) for Medicare clearance on asbestos settlement proceeds.

TWO HUNDRED EIGHTY-SEVEN AND 15/100 (\$287.15) DOLLARS shall be paid to Serling & Abramson, P.C., as reimbursement of probate costs and fees.

The balance of ONE HUNDRED FORTY-SEVEN THOUSAND EIGHT HUNDRED NINETY-FOUR AND 07/100 (\$147,894.07) DOLLARS shall be distributed as follows:

ONE HUNDRED FORTY-SEVEN THOUSAND EIGHT HUNDRED NINETY-FOUR AND 07/100 (\$147,894.07) DOLLARS to Elaine Walczyk.

IT IS FURTHER ORDERED that plaintiff's counsel shall deposit ONE HUNDRED PERCENT (100%) of the settlement proceeds awarded to Elaine Walczyk, as set forth above, into an interest-bearing account to allow plaintiff's counsel an opportunity to investigate and extinguish or resolve any potential Medicare and/or other health insurance liens. Upon satisfaction of said liens, plaintiff's counsel shall distribute the remainder of the settlements set aside herein as follows:

100% to Elaine Walczyk

IT IS FURTHER ORDERED that to the extent that the combined net proceeds plus interest thereon exceeds the sum of ONE HUNDRED FORTY-SEVEN THOUSAND EIGHT HUNDRED NINETY-FOUR AND 07/100 (\$147,894.07) DOLLARS,

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additional sums shall be paid as follows:

100% to Elaine Walczyk

IT IS FURTHER ORDERED that each party will be responsible for their own attorney fees and costs in this matter.

IT IS FURTHER ORDERED that the following are dismissed with prejudice: ABB, Inc.; Adience, Inc.; All Acquisition LLC; The Alliance Machine Company; Amdura, LLC; American Crane Corporation; Ameron International Corporation; Amphenol Corporation; A.O. Smith; Armstrong International, Inc; Armstrong Pumps, Inc.; Auburn Manufacturing Company; Avocet Enterprises, Inc.; A.W. Chesterton Company; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; BASF Corporation; Bayer Cropscience, Inc.; Blue Point Capital Partners, LLC; The Boomer Company; Boone and Darr, Inc.; Bryan Steam Corporation; Bryan Steam, LLC; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carrier Corporation; Carver Pump Co.; Champlain Cable Corporation; Cleaver Brooks Company; Clow Corporation (McWane, Inc.); Compudyne Corporation; Cooper Industries LLC; Crane Co.; Crosby Valve, LLC; Daubert Chemical Company, Inc.; Detroit Temperature Engineers, Inc.; Durametallic Corporation; Eaton Corporation; ECR International, Inc.; Edward Vogt Valve Co.; Electrolux USA, Inc.; Elof Hansson USA Inc.; Everlasting Valve Co.; F.B. Wright Company; F.L. Smidth Dorr-Oliver Eimco Inc.; Flowserve Corporation; Flowserve US Inc.; FMC Corporation; Ford Motor Company; Foseco, Inc.; Foster Wheeler Energy Corporation; General Electric Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Goulds Pumps, Incorporated; Greene, Tweed & Company; Grinnell LLC;

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Gusmer Enterprises, Inc.; Harrison Piping Supply Company; Honeywell International, Inc.: Howard Electric Company: Hoyt, Brumm and Link, Inc.; IMO Industries, Inc.; Industrial Holdings Corporation; ITT Industries, Inc.; IU North America, Inc.; J-M Manufacturing Company, Inc.; John E. Green Company; Johnson Controls, Inc.; K. L. McCoy and Associates, Inc.; K & C Supply, Inc.; Kerr Pump and Supply, Inc.; Lennox Industries, Inc.; Limbach Company LLC; Marathon Petroleum Company LP; The Marley-Wylain Company; McMaster-Carr Supply Company; Metropolitan Life Insurance Company; Michigan Valve and Foundry Corporation; Midland Ross Corporation: Midwest Valve & Fitting Company: Morgan Engineering Systems, Inc.; MW Custom Papers, LLC; Nagle Pumps, Inc.; The Nash Engineering Company; New Coleman Holdings, Inc.; Parker-Hannifin Corporation; Pfizer, Inc.; Power Process Piping, Inc.; R. L. Deppmann Company; Radiator Specialty Company; Rankin Automation Company, LLC; Reunion Industries, Inc.; Rex/Roto Corporation; Rheem Manufacturing Company; Ric-Wil, Inc.; Riley Power, Inc.; Rockwell Automation, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Rust Engineering & Construction, Inc.; Rust International, Inc.; Ruthman Pump & Engineering, Inc.; Satterlund Supply Company; Schad Boiler Setting Company; Sealite, Inc.; Seaway Mechanical Contractors, Incorporated; Shaw-Winkler, Inc.; Square D Company; Standard Fuel Engineering Company; The Stanley-Carter Company; Sterling Fluid Systems (USA), LLC; Sulzer Pumps (US) Inc.; Taco, Inc.; Terex Corporation; Thiem Corporation; Trans-Pumps, Inc.; Union Carbide Chemicals and Plastics Company, Inc.; Union Pumps Company; Uniroyal, Inc.; Viacom International, Inc.; Viking Pump, Inc.; W. J. O'Neil Co.; W. M. Sprinkman, LLC;

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Warren Pumps, LLC; Wayne/Scott Fetzer Company; Weil-McLain; Weir Valves & Controls USA, Inc.; Welton Rubber Company; The William Powell Company; York Rubber Company; York International Corporation.

/s/ Patricia Fresard 5/13/2022

HON. PATRICIA FRESARD CIRCUIT COURT JUDGE

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# EXHIBIT 5

### STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER AND CYNTHIA ESPER v.	Case Number 20-016314-NF
ABB, Inc., et al,/	
	7 DAY
ORDER OF DISMISSAL AND ADMINIST	TRATIVE CLOSING
At a session of the Court, held in the City Wayne, State of Michigan on6/2/20.	[전통] (C. 1.1.) 시간, (P. 1.1.) [1.1.] (P. 1.1.) [1.1.] (P. 1.1.) (P. 1.1.) (P. 1.1.) (P. 1.1.)

PRESENT: HONORABLE

Upon the filing and reading of the attached Notice of Presentment of Order Under Seven Day Rule which is in conformance with the Case Management Order of the Court for the asbestos personal injury cases docket;

PATRICIA FRESARD

CIRCUIT COURT JUDGE

IT IS ORDERED that the above-captioned case is hereby dismissed with prejudice and without costs or attorney fees as to the following Defendants and Third-Party Defendants: A.W. Chesterton Company; ABB, Inc.; Adience, Inc.; Alliance Machine Company; Amdura, LLC; Ameron International Corporation; Amphenol Corporation; Anderson Greenwood & Company; Armstrong International, Inc.; Armstrong Pumps, Inc.; Auburn Manufacturing Company; Baltimore Ennis Land Company, Inc.; Banner Engineering & Sales, Inc.; BASF Corporation; Bayer Cropscience, Inc.; Boomer Company; Bryan Steam Corporation; Bryan Steam, LLC,; Burnham LLC; BW/IP, Inc.; Cameron International Corporation; Carrier Corporation; Carver Pump Co.; Champlain Cable Corporation; Cleaver Brooks Company; Clow Corporation; Compudyne Corporation; Cooper Industries LLC; Crane Co.; Crosby Valve, LLC; Daubert Chemical Company, Inc.; Durametallic Corporation; Edward Vogt Valve Co.; Electrolux Usa, Inc.; Elof Hansson Usa Inc.; Everlasting Valve Co.; F.B. Wright Company; F.L. Smidth Dorr-Oliver Eimco Inc.; Flowserve Corporation; Flowserve Us Inc.; FMC Corporation; Ford Motor Company; Foseco, Inc.; Foster Wheeler Energy Corporation; General Electric Company; Goodall Rubber Company; Goodrich Corporation; Goodyear Tire & Rubber Company; Goulds Pumps, Incorporated; Greene, Tweed & Company; Grinnell LLC; Harrison Piping Supply Company; Honeywell International, Inc.; Howard Electric Company; IMO Industries, Inc.; ITT Industries, Inc.; IU North America, Inc.; John E. Green Company; Johnson Controls, Inc.; K & C Supply, Inc.; Kerr Pump and Supply, Inc.; Limbach Company LLC; Marathon Petroleum Company Lp; Marley-Wylain Company; McMaster-Carr Supply Company; McWane, Inc.; Metropolitan Life Insurance Company; Michigan Valve and Foundry Corporation; Midland Ross

Corporation; Midwest Valve & Fitting Company; Nagle Pumps, Inc.; Parker-Hannifin Corporation; Pfizer, Inc.; Power Process Piping, Inc.; R. L. Deppmann Company; Radiator Specialty Company; Ric-Wil, Inc.; Riley Power, Inc.; Rockwell Automation, Inc.; Roger Zatkoff Company; Roper Pump Company; Roth Pump Company; Rust Engineering & Construction Inc.; Rust International, Inc.; Ruthman Pump & Engineering, Inc.; Schad Boiler Setting Company; Seaway Mechanical Contractors, Incorporated; Shaw-Winkler, Inc.; Sherwin-Williams Company; Socony Mobil Company, Inc.; Square D Company; Standard Fuel Engineering Company; Stanley-Carter Company; Sterling Fluid Systems (USA), LLC; Sulzer Pumps (US) Inc.; Sunoco, Inc (R&M); Taco, Inc.; Terex Corporation; Thiem Corporation; Trans-Pumps, Inc.; Union Carbide Chemicals and Plastics Company, Inc.; Union Pumps Company; Uniroyal, Inc.; Viacom International, Inc.; Viking Pump, Inc.; W. J. O'Neil Co.; W. M. Sprinkman, LLC; Warren Pumps, LLC; Wayne/Scott Fetzer Company; Weir Valves & Controls Usa, Inc.; Welton Rubber Company; William Powell Company; York International Corporation; York Rubber Company;

IT IS FURTHER ORDERED that the case is closed for administrative purposes without prejudice as to any Defendant which is now the subject of a bankruptcy case in the U.S. District court in which a stay of proceedings or an injunction is now in effect. This closing does not constitute a dismissal or a decision on the merits. If the bankruptcy stay or the injunction is removed, this case may be reopened as to that Defendant only on motion of either the Plaintiff or the Defendant.

/s/ Patricia Fresard 6/2/2022
CIRCUIT COURT JUDGE

### **EXHIBIT C**

Department of Health & Human Services Centers for Medicare & Medicaid Services 7500 Security Boulevard Baltimore, Maryland 21244-1850



### **Financial Services Group**

### August 19, 2014

Note: This document revises the October 11, 2011 document issued on this subject. The revised language is highlighted below.

### Liability Insurance (Including Self-Insurance): Exposure, Ingestion, and Implantation Issues and December 5, 1980

The Centers for Medicare & Medicaid Services (CMS) has consistently applied the Medicare Secondary Payer (MSP) provision for liability insurance (including self-insurance) effective December 5, 1980. As a matter of policy, Medicare does not assert an MSP liability insurance-based recovery claim against settlements, judgments, awards, or other payments where the date of incident (DOI) occurred before December 5, 1980.

When a case involves continued exposure to an environmental hazard or continued ingestion of a particular substance, Medicare focuses on the date of last exposure or ingestion for purposes of determining whether the exposure or ingestion occurred on or after December 5, 1980. Similarly, in cases involving ruptured implants that allegedly led to a toxic exposure, the exposure guidance or date of last exposure is used. For

non-ruptured implanted medical devices, Medicare focuses on the date the implant was removed. (**Note:** The term "exposure" refers to the claimant's actual physical exposure to the alleged environmental toxin, not the defendant's legal exposure to liability.)

In the following situations, Medicare will assert a recovery claim against settlements, judgments, awards, or other payments, and the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) Section 111 MSP mandatory reporting rules must be followed:

- Exposure, ingestion, or the alleged effects of an implant on or after December 5, 1980, is claimed, released, or effectively released in the most recently amended operative complaint or comparable supplemental pleading;
- A specified length of exposure or ingestion is required for the claimant to obtain the settlement, judgment, award, or other payment, and the claimant's date of first exposure plus the specified length of time in the

- settlement, judgment, award or other payment equals a date on or after December 5, 1980. This also applies to implanted medical devices; and
- A requirement of the settlement, judgment, award, or other payment is that the claimant was exposed to, or ingested, a substance on or after December 5, 1980. This rule also applies if the settlement, judgment, award, or other payment depends on an implant that was never removed or was removed on or after December 5, 1980.

When **ALL** of the following criteria are met, Medicare will not assert a recovery claim against a liability insurance (including self-insurance) settlement, judgment, award, or other payment; and MMSEA Section 111 MSP reporting is not required. (**Note:** Where multiple defendants are involved, the claimant must meet all of these criteria for each individual defendant for a settlement, judgment, award, or other payment from that defendant to be exempt from a potential MSP recovery claim and MMSEA Section 111 reporting):

- All exposure or ingestion ended or the implant was removed before December 5,1980;
- Exposure, ingestion, or an implant on or after December 5, 1980, has not been claimed in the most recently amended operative complaint (or comparable supplemental pleading) and/or specifically released; and
- There is either no release for the exposure, ingestion, or an implant on or after December 5, 1980, or where there is such a release, it is a broad general release (rather than a specific release), which effectively releases exposure or ingestion on or after December 5, 1980. The rule also applies if the broad general release involves an implant.

Any operative amended complaint (or comparable supplemental pleading) must occur prior to the date of settlement, judgment, award, or other payment and must not have the effect of improperly shifting the burden to Medicare by amending the prior complaint(s) to remove any claim for medical damages, care, items and/or services, etc.

Where a complaint is amended by Court Order and that Order limits Medicare's recovery claim based on the criteria contained in this alert, CMS will defer to the Order. CMS will not defer to Orders that contradict governing MSP policy, law, or regulation.

### **EXAMPLES:**

Below are some illustrative examples of how the policy related to December 5, 1980, should be applied to situations involving exposure, ingestion, and implantation. These examples are illustrative, as each situation must be evaluated individually on its merits. (**Note:** It is the parties' responsibility to make a determination regarding this policy).

Situation	Application of December 5, 1980, Policy
The claimant was exposed to a toxic substance in his house. He moved on December 4, 1980. The claimant did not return to the house.	Exposure ended before December 5, 1980.
The claimant was exposed to a toxic substance in his house. He moved on December 4, 1980. The claimant makes monthly visits to the house because his mother continues to live in the house.	Exposure did not end before December 5, 1980.
The claimant was exposed to a toxic substance while he worked in Building A. He was transferred to Building B on December 4, 1980, and did not return to Building A.	Exposure ended before December 5, 1980.
The claimant was exposed to a toxic substance while he worked in Building A. He was transferred to Building B on December 4, 1980, but routinely goes to Building A for meetings.	Exposure did not end before December 5, 1980.
The claimant had a defective implant removed on December 4, 1980. The implant had not ruptured.	Exposure ended before December 5, 1980.
The claimant had a defective implant that was never removed.	Exposure did not end before December 5, 1980.

### REPORTING REMINDER:

Information related to the MMSEA Section 111 MSP reporting requirements can be found in the NGHP User Guide found on the CMS website. When reporting a potential settlement, judgment, award, or other payment related to exposure, ingestion, or implantation, the date of first exposure/date of first ingestion/date of implantation is the date that MUST be reported as the DOI. This is true for purposes of individual self-identification of a pending claim to CMS' Coordination of Benefits Contractor, as well as for MMSEA Section 111 reporting.

## **EXHIBIT D**

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BARBER, Dec., LARRY BEATTY, Dec., EARL ESPER, DONALD and CYNTHIA HENNI, Dec., CARL KACHMAN, Dec., NICHOLAS MCCAUL, Dec., ROBERT WALCZYK, Dec., RICHARD,

Case No. 20-006060-NP Case No. 20-016314-NP Case No. 20-007746-NP Case No. 20-005638-NP Case No. 20-008150-NP

Case No. 20-012537-NP

Case No. 20-006826-NP

HON. PATRICIA FRESARD

Plaintiffs,

٧

STANDARD FUEL ENGINEERING COMPANY, a Michigan Corporation; and SPENCE BROTHERS, a Michigan Corporation.

Defendants.

ERIC B. ABRAMSON (P60949) MARGARET H. JENSEN (P33511) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

PATRICK M. FISHMAN (P41656) KITCH, DRUTCHAS, WAGNER, V ALITUTTI & SHERBROOK Attorneys for Defendants One Woodward Ave., Ste. 2400 Detroit, MI 48226 (313) 965-7900

#### DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF, BRIEF IN SUPPORT, EXHIBITS, AND CERTIFICATE OF SERVICE

NOW COMES Defendants STANDARD FUEL ENGINEERING COMPANY and SPENCE BROTHERS, by and through their attorneys, KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK, and for their response to plaintiffs' motion for injunctive relief, state as follows:

1. These cases are product liability actions in which plaintiffs allege that they were exposed to asbestos at their work sites. They were part of the January 24, 2022

Kitch Drutchas
Wagner Valitutti &
Sherbrook
ATTORNEYS AND
COUNSELORS
ONE WOODWARD AVENUE
SUITE 2400
DETROIT, MICHIGAN
48226-5485

313) 965-7900

Wayne County Trial Group.

- 2. Plaintiffs and defendants reached a settlement in the above-named cases and consent judgments were entered on May 13, 2022 as to decedent plaintiffs Larry Barber, Earl Beatty, Carl Henni, Nicholas Kachman, Robert McCaul, and Richard Walczyk (Exhibit 4 to plaintiffs' motion). An order of dismissal with prejudice was entered in the Cynthia & Donald Esper case on June 2, 2022 (Exhibit 5 to plaintiffs' motion).
- 3. As set forth below, this Court should deny plaintiffs' motion for an injunction where an order enjoining defendants from reporting settlements to the CMS as required by 42 USC 1395y(b) would violate the supremacy clause of the United States Constitution and/or where plaintiffs failed to meet their burden of establishing that an injunction is warranted.
- 4. Under the Medicare Secondary Payer Act, 42 USC 1395y, liability insurers, among other entities, are required to report to Centers for Medicare & Medicaid Services ("CMS") certain details of any settlement, judgment, award, or other payments to plaintiffs who also happen to be Medicare recipients. Failure to report may result in a civil money penalty of up to \$1,000 for each day of noncompliance with respect to each plaintiff. An exception to the mandatory reporting provisions involves settlements, judgments, awards and other payments involving entirely pre-December 5, 1980 asbestos exposure. CMS set forth certain criteria that must be met in order to be exempt from reporting.
- 5. Although, defendants do not dispute that discovery has revealed no asbestos exposure after December 5, 1980 in the above-named cases, as set forth

Kitch Drutchas
Wagner Valitutti 8
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below, the requirements to meet the exception to the reporting requirements are not met in these cases, such that defendants<sup>1</sup> are required by federal statute to report the settlements at this time.

6. Defendants submit that, as an alternative to an injunction, an order should be entered allowing the language of the complaint to be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

- 7. Defendants also request that this Court hold that discovery has revealed no post-1980 asbestos exposure in the above-named cases (see proposed order, attached hereto as Exhibit C).
- 8. Alternatively, defendants request that this Court adjourn deciding plaintiffs' motion and permit defendants to contact CMS and request CMS to clarify its position as to its reporting guidelines such that defendants seek assurances that defendants are not required to report under these circumstances.
- 9. The inclusion of this amended language in the complaint would meet the criteria to the reporting exception, such that defendants would not be obligated to report the settlements to CMS.

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<sup>&</sup>lt;sup>1</sup> For purposes of this motion, any reference to defendants include defendants' liability insurer(s).

WHEREFORE, defendants request that this respectfully request that this Honorable Court deny plaintiffs' motion, and enter an order amending the language of the complaints and hold that discovery revealed no post-1980 exposure, and/or permit defendants to contact CMS and request CMS to clarify its position as to its reporting guidelines.

Respectfully submitted,

KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK

By: 1s/ Patrick M. Fishman

PATRICK M. FISHMAN (P41656) KATHARINE GOSTEK (P80973) Attorneys for Defendants Standard Fuel Engineering Company and Spence Brothers One Woodward Ave., Ste. 2400 Detroit, MI 48226 (313) 965-7900

Dated: July 12, 2022

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#### **BRIEF IN SUPPORT**

THIS COURT SHOULD DENY PLAINTIFFS' MOTION FOR AN INJUNCTION UNDER MCR 3.310 WHERE AN ORDER ENJOINING DEFENDANTS FROM REPORTING SETTLEMENTS TO THE CMS AS REQUIRED BY 42 USC 1395Y(b) WOULD VIOLATE THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION AND/OR WHERE PLAINTIFFS FAILED TO MEET THEIR BURDEN OF ESTABLISHING THAT AN INJUNCTION IS WARRANTED.

This Court should deny plaintiffs' motion for an injunction under MCR 3.310 where an order enjoining defendants from reporting settlements to the CMS as required by 42 USC 1395y(b) would violate the supremacy clause of the United States Constitution and/or where plaintiffs failed to meet their burden of establishing that an injunction is warranted.

A. Defendants Have A Mandatory Duty To Report Settlements To CMS Under The Medicare Secondary Payer Act.

Before the enactment of the Medicare Secondary Payer Act, 42 USC 1395y(b) ("MSPA") [section 1862(b) of the Social Security Act], Medicare often was the "primary" payer of medical expenses. The MSPA was enacted to reverse this and to ensure that Medicare would be "the 'secondary payer' for medical services provided to Medicare beneficiaries whenever payment is available from another primary payer." *Stalley v Methodist Healthcare*, 517 F3d 911, 915 (CA6, 2008). Medicare Secondary Payer provisions have been amended several times. One of the amendments includes section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA Section 111), which added mandatory reporting requirements with respect to Medicare beneficiaries who receive settlements, judgments, awards or other payment from liability insurance (including self-insurance), no-fault insurance, or workers' compensation. 42 USC § 1395y(b)(8). Under the MSPA, the insurer is required to report to Centers for

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Medicare & Medicaid Services ("CMS") certain details of any settlement, judgment, award, or other payments to Medicare recipients arising out of asbestos exposures. *Id.*An insurer who fails to comply with the mandatory reporting requirements "may be subject to a civil money penalty of up to \$1,000 for each day of noncompliance with respect to each claimant [Medicare recipients plaintiff]." 42 USC § 1395y(b)(8)(E)(i).

As a matter of policy, an exception to the mandatory reporting provisions involves settlements, judgments, awards and other payments comprising entirely pre-December 5, 1980 occurrences; i.e. asbestos exposure occurring exclusively before December 5, 1980 (CMS, *Liability Insurance (Including Self-Insurance): Exposure, Ingestion, and Implantation Issues and December 5, 1980*, dated 8/19/14, attached hereto as Exhibit A). The CMS directive provides the criteria that must be met in order to be exempt from the statutory duty to report, as follows:

When **ALL** of the following criteria are met, Medicare will not assert a recovery claim against a liability insurance (including self-insurance) settlement, judgment, award, or other payment; and MMSEA Section 111 MSP reporting is not required...

- All exposure or ingestion ended or the implant was removed before December 5,1980;
- Exposure, ingestion, or an implant on or after December 5, 1980, has not been claimed in the most recently amended operative complaint (or comparable supplemental pleading) and/or specifically released; and
- There is either no release for the exposure, ingestion, or an implant on or after December 5, 1980, or where there is such a release, it is a broad general release (rather than a specific release), which effectively releases exposure or ingestion on or after December 5, 1980. The rule also applies if the broad general release involves an implant. [(Id. p 2) (emphasis in original).

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<sup>&</sup>lt;sup>2</sup> Plaintiffs do not appear to be arguing that they are not Medicare recipients.

Here, the second requirement – that exposure after December 5, 1980, has not been claimed in the most recently amended operative complaint or comparable supplemental pleading – has not been met. The complaints for the above-named plaintiffs provide that asbestos exposure occurred both pre- and post- 1980 (complaints, Exhibit B). Therefore, under 42 USC § 1395y(b)(8), defendants here are required to report the settlements or risk a fine of \$1,000 per day per plaintiff where the complaints allege post-December 5, 1980 exposure to asbestos. Plaintiffs' motion essentially is requesting that this Court forbid defendants from complying with their obligations under federal law.

Plaintiffs' argument that defendants have no legal duty to report because the plaintiffs are enrolled in "Epiq programs" (plaintiffs' motion, p 6) is misplaced. Plaintiffs cited no binding authority relieving defendants of their federal duty to report settlements to CMS. Any letters from CMS to The Garretson Resolution Group, Inc.<sup>3</sup> providing that defendants are not required to report any settlements, awards, or judgments, if the plaintiff is enrolled in an "Epiq program" are merely letters directed to a non-party, not defendants. Nor are these apparent letters binding on defendants. Defendants should not be prohibited from fulfilling a statutory duty merely because a non-party private company was told that liability insurers are not obligated to report any settlements or awards involving "Epiq" plaintiffs.

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<sup>&</sup>lt;sup>3</sup> The Garretson Resolution Group, Inc., also known as Epiq Mass Tort ("Epiq") is a third-party, private company that many plaintiff firms have partnered with to facilitate and execute the Medicare reimbursement obligations that may arise after an asbestos-related settlement or judgment. Epiq is not a governmental entity and it is not controlled or managed by CMS.

B. This Court Should Deny Plaintiffs' Motion Where The Court Lacks Jurisdiction And/Or Authority To Enter An Order Enjoining Defendants And/Or Their Liability Insurers From Fulfilling Federal Reporting Requirements To A Non-Party Entity – CMS.

Plaintiffs fail to cite any authority that this Court has jurisdiction and/or authority to enjoin defendants and/or their liability insurers from fulfilling federal reporting requirements to a non-party entity – CMS. Plaintiffs' request to prohibit defendants from fulfilling their reporting obligations under federal law is a violation of the Supremacy Clause.

The Supremacy Clause of the United States Constitution provides as follows:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound

thereby, <a href="https://advance.lexis.com/document/teaserdocument/?pdmfid=1000516&crid=fa9d9b26-d3fa-4359-bf2a-">https://advance.lexis.com/document/teaserdocument/?pdmfid=1000516&crid=fa9d9b26-d3fa-4359-bf2a-</a>

d779c61cb1cb&pdteaserkey=h1&pditab=allpods&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A65S8-W991-K0HK-2392-00000-00&ecomp=rd-pk&earg=sr0&prid=cd267204-b518-469a-8c41-da3d1efa8a00 any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [US Const, art VI, cl 2.]

"[F]ederal law preempts state law in three circumstances: (1) where Congress has expressed an intent to preempt state law [express preemption], (2) where state law regulates conduct in a field that Congress intended to occupy exclusively [conflict preemption], and (3) where state law actually conflicts with federal law [field preemption." *In re Schultz*, 334 Mich App 730, 737 (2020) (citation omitted); see also *Grand Trunk Western R Co v City of Fenton*, 439 Mich 240, 243-244; 482 NW2d 706 (1992) (Preemption may be express where Congress has explicitly stated its intent to preempt state law; "field," where state law regulates conduct in a field that Congress has intended to occupy exclusively; or "conflict," where state law is in actual conflict with

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federal law).

It is well established that state law and/or state court orders may not conflict with federal regulations as well as federal statutes. See *Stajos v City of Lansing*, 221 Mich App 223, 235 (1997) ("Properly promulgated federal regulations may also preempt state statutes." (citation omitted)); *State v Lampart (In re Lampart)*, 306 Mich App 226 (2014) ("When a state court order attaches to Social Security benefits in contravention of 42 USC 407(a), the attachment amounts to a conflict with federal law, and such a conflict is one 'that the State cannot win.'") quoting *Bennett v Arkansas*, 485 US 395, 397; 108 S Ct 1204 (1988); *Foster v Foster*, 505 Mich 151, 156; 949 NW2d 102 (2020) (a consent judgment of divorce was unenforceable to the extent it was preempted by federal statute).

Here, an order prohibiting defendants from reporting any of the settlements to CMS would be preempted by the Medicare Secondary Payer Act. Although the MSPA's secondary payer provisions do not contain a preemption clause, the agency's regulations do. 42 CFR § 411.32(a)(1) provides that "Medicare benefits are secondary to benefits payable by a primary payer even if State law or the primary payer states that its benefits are secondary to Medicare benefits or otherwise limits its payments to Medicare beneficiaries." As such, any state law or state court order effectively preventing CMS from determining whether it is owed reimbursement as a secondary payer would be preempted.

Conflict preemption also applies here. Conflict preemption "can arise when it is impossible to comply with both federal and state requirements . . . or when state law stands as an obstacle to the accomplishment and execution of the full purposes and

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objectives of Congress." *Ter Beek v City of Wyoming*, 495 Mich 1, 12 (2014) (internal citations omitted)). See also *Wayne Cnty. Bd of Com'rs v Wayne Cnty. Airport Auth*, 253 Mich App 144, 198 (2002).

Here, MMSEA Section 111 straightforwardly mandates that defendants comply with their reporting obligations and report any settlement, judgment, award, or other payments to plaintiffs who happen to be Medicare recipients. See 42 USC 1395y(b)(8) (providing for "[r]equired submission of information by or on behalf of liability insurance (including self-insurance)"). MMSEA Section 111 does not require defendants to report only if they are likely to be sanctioned for failure to report or if defendants believe CMS is not entitled to reimbursement. As set forth above, CMS set forth the requisite criteria to be exempt from the mandatory reporting statute, 42 USC 1395y(b)(8), which are not met in this case (Exhibit A). Here, a court order prohibiting defendants from reporting the settlements with plaintiffs to CMS would conflict with the federal requirement that defendants report such settlements to CMS and would be preempted by federal law. Bomba v Bazakis (In re Bazakis), unpublished opinion per curiam of the Court of Appeals, issued June 23, 2022 (Docket No. 358276) (holding that "the [state court] order requiring that Bomba direct one-half of AM's monthly SSI [Supplemental Security Incomel benefits to Bazakis conflicts with at least 42 USC 1383(a)(2)(A)(ii)(I), and potentially 42 USC 407(a). . . . The probate court order conflicts with the federal requirement that the representative payee determines (consistent with federal guidelines) how to best allocate the SSI benefits for the 'use and benefit of' AM.") (emphasis in original).

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Moreover, a court order prohibiting defendants from reporting the settlements

with plaintiffs to CMS would stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The MSPA was enacted to ensure that Medicare would be "the 'secondary payer' for medical services provided to Medicare beneficiaries whenever payment is available from another primary payer." *Stalley, supra.* The purpose of the reporting requirements is to allow CMS, as a secondary payer, to determine whether it is owed reimbursement from proceeds from liability insurers. Prohibiting defendants from reporting settlements to CMS frustrates the "accomplishment and execution of the full purposes and objectives" the reporting statute and the entire MSPA. *Ter Beek, supra.* 

Therefore, this Court should deny plaintiffs' motion where an order prohibiting defendants from mandatory reporting under 42 USC 1395y(b)(8) would violate the Supremacy Clause of the United States Constitution.<sup>4</sup>

C. This Court Should Deny Plaintiffs' Motion Where Plaintiffs Failed To Meet Their Burden Of Establishing That An Injunction Is Warranted, And An Alternative Remedy Exists.

Plaintiffs are requesting that this Court enter an injunction pursuant to MCR 3.310. MCR 3.310(A)(1) provides that "Except as otherwise provided by statute or these rules, an injunction may not be granted before a hearing on a motion for a preliminary injunction or on an order to show cause why a preliminary injunction should not be issued." The party requesting injunctive relief bears the burden of establishing that an injunction is warranted. MCR 3.310(A); *Slis v Michigan*, 332 Mich App 312, 337;

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<sup>&</sup>lt;sup>4</sup> Defendants submit that plaintiffs' motion raises a federal issue and should be decided in federal court. As such, defendants may remove this matter to federal court.

956 NW2d 569 (2020).<sup>5</sup> "Injunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Jeffrey v Clinton Twp*, 195 Mich App 260, 263-264; 489 NW2d 211 (1992). "When an injury is irreparable, the interference is of a permanent or continuous character, or the remedy at law will not afford adequate relief, a bill for an injunction is an appropriate remedy." *Schadewald v Brule*, 225 Mich App 26, 40; 570 NW2d 788 (1997).

In *Kernan v Homestead Dev Co*, 232 Mich App 503; 591 NW2d 369 (1998), the Court held that trial courts should consider several factors in evaluating a party's request for a permanent injunction:

- (a) the nature of the interest to be protected,
- (b) the relative adequacy to the plaintiff of injunction and of other remedies,
- (c) any unreasonable delay by the plaintiff in bringing suit,
- (d) any related misconduct on the part of the plaintiff,
- (e) the relative hardship likely to result to defendant if an injunction is granted and to plaintiff if it is denied,
- (f) the interests of third persons and of the public, and
- (g) the practicability of framing and enforcing the order or judgment. [*Id.* at 514-515.]

Plaintiffs have failed to establish that an injunction should be granted here.

Specifically, plaintiffs failed to establish an irreparable injury would occur if defendants followed the mandatory reporting requirements under 42 USC § 1395y(b). For

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<sup>&</sup>lt;sup>5</sup> To the extent that plaintiff's motion is interpreted as a motion for a preliminary injunction, defendants are entitled to security under MCR 3.310(D).

example, plaintiffs failed to establish that CMS more likely than not would take proceeds out of the settlement even if plaintiffs can establish that there was no December 5, 1980 exposure to asbestos. The mere fact that plaintiffs reported to CMS that there was no pre-1980 asbestos exposure, such that any reporting of the settlements by the defendants "may require unnecessary time and expense to resolve" (plaintiffs' motion, p 6), is not sufficient to establish an "irreparable injury." Nor should defendants have to carry the burden of the risk of a monetary fine of \$1,000 per day per plaintiff simply because plaintiffs alleged post-1980 asbestos exposure in their complaints and failed to amend their complaints prior to entry of the judgments to establish that there was no asbestos exposure after December 5, 1980, thus meeting CMS' reporting exception criteria.

Moreover, plaintiff failed to establish that another remedy will not afford adequate relief. Defendants do not dispute that discovery has revealed no asbestos exposure after December 5, 1980 in the above-named cases. As set forth above, however, one of the criteria required to meet the reporting exception – that plaintiffs have not claimed exposure on or after December 5, 1980 in the most recently amended operative complaint or comparable supplemental pleading – has not been met in the above-named cases. An alternative remedy that would adequately address plaintiffs' concerns without burdening defendants with a risk of a monetary fine of \$1,000 per day per plaintiff is entry of an order allowing the language of the complaints be amended as follows:

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[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

With this amendment, the Discovery Brochures effectively would be the controlling supplemental pleadings, thus meeting the exception to the mandatory reporting statute, such that defendants would not be required to report the settlements to CMS. Defendants also request that this Court hold that discovery has revealed no post-1980 asbestos exposure in the above-named cases (see proposed order, Exhibit C).

Plaintiffs assert that because these cases have been dismissed, they cannot be reopened to amend the complaints (plaintiffs' motion, p 4). Plaintiffs, however, provide no authority to support their position (*Id.*). To the contrary, post-judgment amendments to the complaint are permitted. MCR 2.118(C); MCR 2.611; *Browder v International Fidelity Ins Co*, 413 Mich 603 (1982) (granting post-judgment motion to amend the complaint to conform to the evidence).

As set forth above, injunctive relief "is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Jeffrey, supra*. Here, not only did plaintiffs fail to establish danger of an "irreparable injury," but also an adequate alternative to an injunction – an order amending the complaints – exists for all but one named plaintiff. For the reasons set forth above, this Court should deny plaintiffs' motion and enter an order allowing for the amendment of the language of the complaints, such that the exception to the mandatory reporting statute would be met and defendants would not be required to report the settlements to CMS.

Alternatively, defendants request that this Court adjourn deciding plaintiffs' motion and permit defendants to contact CMS and request CMS to clarify its position as

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to its reporting guidelines such that defendants seek assurances that defendants are

not required to report under these circumstances.

WHEREFORE, defendants request that this respectfully request that this

Honorable Court deny plaintiffs' motion, and enter an order amending the language of

the complaints and hold that discovery revealed no post-1980 exposure, and/or permit

defendants to contact CMS and request CMS to clarify its position as to its reporting

quidelines.

Respectfully submitted,

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Dated: July 12, 2022

STATE OF MICHIGAN MI Wayne 3rd Circuit Court	PROOF OF ELECTRONIC SERVICE	<b>CASE NO.</b> 20-006826-NP
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Case title

BARBER, LANA, et al. v ROTH PUMP COMPANY, et al.

1. MiFILE served the following documents on the following persons in accordance with MCR 1.109(G)(6).

Type of document	Title of document
IAnswer/Resnonse to Motion	MULTI-CASE - STANDARD FUEL, SPENCE BROTHER'S RESPONSE TO MOTION FOR INJUNCTIVE RELIEF

Person served	E-mail address of service	Date and time of service
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#### Case 2:22-cv-11611-MAG-CI ECF No. 1-1, PageID.213 Filed 07/14/22 Page 198 of 323

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#### 2. I, Patrick Fishman, initiated the above MiFILE service transmission.

This proof of electronic service was automatically created, submitted, and signed on my behalf by MiFILE. I declare under the penalties of perjury that this proof of electronic service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

07/12/2022	
Date	
/s/Patrick Fishman	
Signature	
Kitch Law Firm	
Firm (if applicable)	

## **EXHIBIT A**

Department of Health & Human Services Centers for Medicare & Medicaid Services 7500 Security Boulevard Baltimore, Maryland 21244-1850



#### **Financial Services Group**

#### August 19, 2014

Note: This document revises the October 11, 2011 document issued on this subject. The revised language is highlighted below.

### Liability Insurance (Including Self-Insurance): Exposure, Ingestion, and Implantation Issues and December 5, 1980

The Centers for Medicare & Medicaid Services (CMS) has consistently applied the Medicare Secondary Payer (MSP) provision for liability insurance (including self-insurance) effective December 5, 1980. As a matter of policy, Medicare does not assert an MSP liability insurance-based recovery claim against settlements, judgments, awards, or other payments where the date of incident (DOI) occurred before December 5, 1980.

When a case involves continued exposure to an environmental hazard or continued ingestion of a particular substance, Medicare focuses on the date of last exposure or ingestion for purposes of determining whether the exposure or ingestion occurred on or after December 5, 1980. Similarly, in cases involving ruptured implants that allegedly led to a toxic exposure, the exposure guidance or date of last exposure is used. For

non-ruptured implanted medical devices, Medicare focuses on the date the implant was removed. (**Note:** The term "exposure" refers to the claimant's actual physical exposure to the alleged environmental toxin, not the defendant's legal exposure to liability.)

In the following situations, Medicare will assert a recovery claim against settlements, judgments, awards, or other payments, and the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) Section 111 MSP mandatory reporting rules must be followed:

- Exposure, ingestion, or the alleged effects of an implant on or after December 5, 1980, is claimed, released, or effectively released in the most recently amended operative complaint or comparable supplemental pleading;
- A specified length of exposure or ingestion is required for the claimant to obtain the settlement, judgment, award, or other payment, and the claimant's date of first exposure plus the specified length of time in the

- settlement, judgment, award or other payment equals a date on or after December 5, 1980. This also applies to implanted medical devices; and
- A requirement of the settlement, judgment, award, or other payment is that the claimant was exposed to, or ingested, a substance on or after December 5, 1980. This rule also applies if the settlement, judgment, award, or other payment depends on an implant that was never removed or was removed on or after December 5, 1980.

When **ALL** of the following criteria are met, Medicare will not assert a recovery claim against a liability insurance (including self-insurance) settlement, judgment, award, or other payment; and MMSEA Section 111 MSP reporting is not required. (**Note:** Where multiple defendants are involved, the claimant must meet all of these criteria for each individual defendant for a settlement, judgment, award, or other payment from that defendant to be exempt from a potential MSP recovery claim and MMSEA Section 111 reporting):

- All exposure or ingestion ended or the implant was removed before December 5,1980;
- Exposure, ingestion, or an implant on or after December 5, 1980, has not been claimed in the most recently amended operative complaint (or comparable supplemental pleading) and/or specifically released; and
- There is either no release for the exposure, ingestion, or an implant on or after December 5, 1980, or where there is such a release, it is a broad general release (rather than a specific release), which effectively releases exposure or ingestion on or after December 5, 1980. The rule also applies if the broad general release involves an implant.

Any operative amended complaint (or comparable supplemental pleading) must occur prior to the date of settlement, judgment, award, or other payment and must not have the effect of improperly shifting the burden to Medicare by amending the prior complaint(s) to remove any claim for medical damages, care, items and/or services, etc.

Where a complaint is amended by Court Order and that Order limits Medicare's recovery claim based on the criteria contained in this alert, CMS will defer to the Order. CMS will not defer to Orders that contradict governing MSP policy, law, or regulation.

#### **EXAMPLES:**

Below are some illustrative examples of how the policy related to December 5, 1980, should be applied to situations involving exposure, ingestion, and implantation. These examples are illustrative, as each situation must be evaluated individually on its merits. (**Note:** It is the parties' responsibility to make a determination regarding this policy).

Situation	Application of December 5, 1980, Policy
The claimant was exposed to a toxic substance in his house. He moved on December 4, 1980. The claimant did not return to the house.	Exposure ended before December 5, 1980.
The claimant was exposed to a toxic substance in his house. He moved on December 4, 1980. The claimant makes monthly visits to the house because his mother continues to live in the house.	Exposure did not end before December 5, 1980.
The claimant was exposed to a toxic substance while he worked in Building A. He was transferred to Building B on December 4, 1980, and did not return to Building A.	Exposure ended before December 5, 1980.
The claimant was exposed to a toxic substance while he worked in Building A. He was transferred to Building B on December 4, 1980, but routinely goes to Building A for meetings.	Exposure did not end before December 5, 1980.
The claimant had a defective implant removed on December 4, 1980. The implant had not ruptured.	Exposure ended before December 5, 1980.
The claimant had a defective implant that was never removed.	Exposure did not end before December 5, 1980.

#### **REPORTING REMINDER:**

Information related to the MMSEA Section 111 MSP reporting requirements can be found in the NGHP User Guide found on the CMS website. When reporting a potential settlement, judgment, award, or other payment related to exposure, ingestion, or implantation, the date of first exposure/date of first ingestion/date of implantation is the date that MUST be reported as the DOI. This is true for purposes of individual self-identification of a pending claim to CMS' Coordination of Benefits Contractor, as well as for MMSEA Section 111 reporting.

## **EXHIBIT B**

# LAW OFFICES MICHAEL B. SERLING, P.C. 200 N. OLD WOODWARD AVE. SUITE 406 BIRNINGHAM, MI 48009 (248) 647-6966

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CAROL BEATTY, Personal Representative for the Estate of EARL T. BEATTY, Deceased

Plaintiff,

ASBESTOS DOCKET
Case No: -NP(a)
HON. PATRICIA FRESARD

VS.

ACME INSULATION, a Michigan Corporation;

ADIENCE, INC..

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Bondstrand, Ltd.;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

BEHLER-YOUNG CO.,

a Michigan Corporation;

THE BOOMER COMPANY,

a Michigan Corporation;

BRYAN STEAM CORPORATION,

a New Mexico Corporation;

BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

BURNHAM LLC.

a Delaware Coproration, f/k/a Burnham Corporation;

BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

CARVER PUMP CO.,

a Delaware Corporation;

CHAMPLAIN CABLE CORPORATION,

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

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CLEAVER BROOKS COMPANY, a Pennsylvania Corporation; **CLOW CORPORATION,** a Delaware Corporation; CROSBY VALVE, LLC, a Nevada Corporation; DAUBERT CHEMICAL COMPANY, INC., an Illinois Corporation; **DURAMETALLIC CORPORATION,** a Michigan Corporation; **EVERLASTING VALVE CO.,** a Michigan Corporation; **EVERT ASBESTOS INSULATING COMPANY,** a Michigan Corporation; F.L. SMIDTH DORR-OLIVER EIMCO INC., a Delaware Corporation; FORD MOTOR COMPANY, a Delaware Corporation; GOODALL RUBBER COMPANY, a New Jersey Corporation; GOODRICH CORPORATION, f/k/a B.F. Goodrich Company a New York Corporation; GOODYEAR TIRE & RUBBER COMPANY, an Ohio Corporation; THE GORMAN-RUPP COMPANY, an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company; GREENE, TWEED & COMPANY, a Pennsylvania Corporation; GRINNELL LLC, a Delaware Corporation; HARRISON PIPING SUPPLY COMPANY, a Michigan Corporation; IU NORTH AMERICA, INC., a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering; J-M MANUFACTURING COMPANY, INC., a Delaware Corporation; JOHN E. GREEN COMPANY, a Michigan Corporation;

JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in

interest to Luxaire, Inc., Moncrief Furnace, The Henry

Furnace Company, Fraser-Johnston, Coleman Furnace;

LAW OFFICES
MICHAEL B. SERLING, P.C.
220 M, CLD WOODWARD AVE
BUTTE 496
BURMINGHAM, MI 48009

(248) 617-6966

K & C SUPPLY, INC., an Ohio Corporation; O.C. KECKLEY COMPANY, an Illinois Corporation; KERR PUMP AND SUPPLY, INC., a Michigan Corporation; LENNOX INDUSTRIES, INC., an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace; THE MARLEY-WYLAIN COMPANY, a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company, Peck and Williamson Heating and Ventilating Company, International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company, Williamson Heater Company, MCWANE, INC., a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump; MIDLAND ROSS CORPORATION, an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion; MW CUSTOM PAPERS, LLC, a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation; NAGLE PUMPS, INC., an Ohio Corporation; NETZSCH PUMPS NORTH AMERICA, LLC, a Delaware Corporation; NIBCO, INC.. an Indiana Corporation; PFAUDLER, INC. a Delaware Corporation; POWER PROCESS PIPING, INC., a Michigan Corporation: RADIATOR SPECIALTY COMPANY, a North Carolina Corporation; RIC-WIL, INC., an Ohio Corporation;

ROGER ZATKOFF COMPANY,

a Michigan Corporation;

ROPER PUMP COMPANY, a Delaware Corporation;

LAW OFFICES
MICHAEL B. SERLING, P.C.
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SUITE 406
BIRMINGHAM. MI 48009
(245) 647-8966

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ROTH PUMP COMPANY, a Delaware Corporation; RUTHMAN PUMP & ENGINEERING, INC., an Ohio Corporation, a/k/a Gusher Pumps, Inc.; SATTERLUND SUPPLY COMPANY, a Michigan Corporation; SCHAD BOILER SETTING COMPANY, d/b/a Schad Refractory Construction Co., a Michigan Corporation; SEALITE, INC., a California Corporation; STANDARD FUEL ENGINEERING COMPANY, a Michigan Corporation; STANDCO INDUSTRIES, INC., a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.; THE STANLEY-CARTER COMPANY, a Michigan Corporation: SULZER PUMPS (US) INC., a Delaware Corporation, f/k/a The Austin Company; TA COMPANY, an Ohio Corporation: TACO, INC., a Rhode Island Corporation; TATE ANDALE, INC., a Maryland Corporation, in its own right and successor in interest to Andale Valves; THERMON, INC., a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company; TKD, INC., a California Corporation, in its own right and as successor in interest to Johnston Pump Company, TRANS-PUMPS, INC., a Pennsylvania Corporation, a/k/a Hazelton Pumps; TUTHILL CORPORATION, a Delaware Corporation; UNIROYAL, INC., a/k/a United States Rubber Co., Inc., a New Jersey Corporation; VIKING PUMP, INC., a Delaware Corporation;

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SUITE 406
BIRMINGHAM, MI 48009

(241) 647-6966

WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation:

WEIL PUMP COMPANY,

an Illinois Corporation;

WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

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#### YORK INTERNATIONAL CORPORATION.

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace; YORK RUBBER COMPANY, a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### NOTICE OF COMPLAINT IN WRONGFUL DEATH CASE COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16L001549 and Judge Stephen Stobbs is assigned to the action.

NOW COMES Plaintiff by and through his attorneys, SERLING & ABRAMSON, P.C. and for his Complaint against each Defendant, states as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
- Pursuant to the Court's Case Management Order of November 21,
   Plaintiff, CAROL BEATTY, Personal Representative for the Estate of EARL T.
   BEATTY, Deceased, states as follows:

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MICHAEL B. SERLING, P.C.
286 N. OLD WOODWARD AVE.
SUITE 406
BERMINGHAM, M. 48009
(245) 647-8946

Deceased Plaintiff:

Earl T. Beatty

Decedent's Date of Birth:

January 27, 1938

Decedent's Date of Death;

February 2, 2019

Personal Representative:

Carol Beatty

Per. Rep.'s Birth Date:

July 22, 1939

Personal Representative's Address:

3898 E. Herrick Clare, MI 48617

Spouse of Decedent:

Carol Beatty

Spouse's Date of Birth:

July 22, 1939

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

September 20, 2016

Decedent's Period of Exposure to

Asbestos:

1966-1995 – subject to further

discovery

Decedent's Occupation:

Boiler House Operator, Pipecoverer,

**Pipefitter** 

Employer(s):

**Dow Chemical** 

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

1.0000.

(check one) Yes \_\_\_\_

No X (has been ordered)

Geographical Situs of Asbestos

Exposure:

Wayne County, Michigan

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

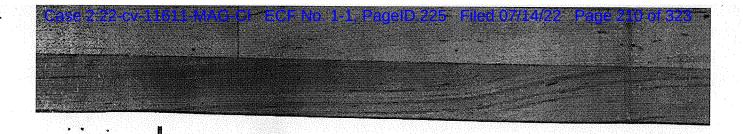
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ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED:

May 6, 2020

LAW OFFICES
MICHAEL B. SERLING, P.C.
190 N. OLD WOODWARD AVE
SUITE 406
BIRKHINGHAM, MI. 48009

#### **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### **KNOWN JOB SITES**

YEARS AT JOB SITES

**Dow Chemical** 

1966-1995

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(248) 647-6966

#### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

BONDEX

**BURNS & ROE** 

CELOTEX CORPORATION

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

**FLEXITALLIC GASKET** 

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER **HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

OGLEBAY NORTON

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

BIRATINGHAM, MT 48009 (248) 647-6966

LAW OFFICES

MICHAEL B. SERLING, P.C.

280 N. OLD WOODWARD AVE. SUITE 406

This list may be incomplete and is subject to change as discovery is ongoing.

SAComplainte DEADLINES 12019 July-Dec BEATTY, Earl SWPF dock

#### ATTACHMENT "C"

All reasonably known medical information is as follows:

Mid Michigan Medical Center 4000 Wellness Dr. Midland, MI

Biopsy

University of Michigan Health System

1011 Cornwell Place Ann Arbor, MI

**Current Treatment** 

Dr. David Bremer 212 W. 6th St. Clare, MI

**General Practitioner** 

Dr. Steven Gellman 602 Beech ST. #1230

Clare, MI

Cardiologist

Dr. Robert Jones 4011 Orchard Place #3004

Midland, MI

Thoracic Surgeon

LAW OFFICES MICHAEL B. SERLING, P.C. 280 N. OLD WOODWARD AVE. SUTTE 406 BIRMINGHAM, MI 48009 (248) 647-6964

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY L. BARBER, Deceased

ASBESTOS DOCKET

Plaintiff.

Case No: -NP(a)
HON. PATRICIA FRESARD

VS.

#### **ACME INSULATION,**

a Michigan Corporation;

#### ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### **ALLISON TRANSMISSION, INC.**

a Delaware Corporation

#### AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Bondstrand, Ltd.;

#### ARVINMERITOR, INC.

a Delaware Corporation

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### **BECHTEL CORPORATION**

a Nevada Corporation;

#### **BEHLER-YOUNG CO.,**

a Michigan Corporation;

#### THE BOOMER COMPANY,

a Michigan Corporation;

#### **BRYAN STEAM CORPORATION,**

a New Mexico Corporation;

#### BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

#### **BURNHAM LLC,**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

#### CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### CARLISLE COMPANIES, INC.

a Delaware Corporation

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BIRMINGHAM, MI 48009

#### **CARVER PUMP CO.,**

a Delaware Corporation;

#### CATERPILLER, INC.

a Delaware Corporation

#### CHERNE CONTRACTING CORPORATION

a Delaware Corporation;

#### **CLEAVER BROOKS COMPANY,**

a Pennsylvania Corporation;

#### **CLOW CORPORATION,**

a Delaware Corporation;

#### CNH INDUSTRIAL AMERICA LLC

a Delaware Corporation, in its own right and as successor by merger of Case Corporation and New Holland N.V.

#### CROSBY VALVE, LLC,

a Nevada Corporation;

#### **CUMMINS, INC.**

an Indiana Corporation

#### DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

#### **DEERE & COMPANY**

a Delaware Corporation

#### **DURAMETALLIC CORPORATION,**

a Michigan Corporation;

#### ELECTROLUX HOME PRODUCTS, INC.

a Delaware Corporation

#### **ESCON GROUP, INC.**

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric;

#### **EVERLASTING VALVE CO.,**

a Michigan Corporation;

#### F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

#### FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### **FMC CORPORATION**

a Delaware Corporation, in its own right and as successor in interest to Link-Belt Construction

#### FORD MOTOR COMPANY,

a Delaware Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation:

#### GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

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BIRMINGHAM, MI 48009

#### THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

#### **GRADALL INDUSTRIES, INC.**

a Delaware Corporation

#### GREENE, TWEED & COMPANY,

a Pennsylvania Corporation;

#### **GUSMER ENTERPRISES, INC.**

a New Jersey Corporation, in its own right and as successor in interest to The Cellulo Company, Filter Materials, Inc. and A. Gusmer, Inc.;

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation;

#### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### HENNESSY INDUSTRIES, INC.

a Delaware Corporation, in its own right and as successor in interest to AMMCO Tools

#### HERLIHY MID-CONTINENT COMPANY

an Illinois Corporation;

#### IMO INDUSTRIES, INC.,

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

#### IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

#### JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K & C SUPPLY, INC.,

an Ohio Corporation;

#### O.C. KECKLEY COMPANY,

an Illinois Corporation;

#### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

#### **KOMATSU AMERICA Corp**

a Georgia Corporation

#### KOMATSU MINING CORP.

a Delaware Corporation

#### LENNOX INDUSTRIES, INC.,

an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace;

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BIRMINGHAM, MI 48009

#### THE MARLEY-WYLAIN COMPANY.

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

#### MCCORD CORPORATION F/K/A MCCORD GASKET COMPANY

a Michigan Corporation

# MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

# MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

# NAGLE PUMPS, INC.,

an Ohio Corporation;

# THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

#### NAVISTAR, INC.

a Delaware Corporation, in its own right and as successor in interest to International Harvester Company and International Truck and Engine Corporation

# NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation:

# PFAUDLER, INC.

a Delaware Corporation;

# PNEUMO ABEX CORPORATION

a Delaware Corporation, f/k/a Abex Corporation

# POWER PROCESS PIPING, INC.,

a Michigan Corporation;

# RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

# RIC-WIL, INC.,

an Ohio Corporation;

# ROGER ZATKOFF COMPANY,

a Michigan Corporation;

# ROPER PUMP COMPANY,

a Delaware Corporation;

# ROTH PUMP COMPANY,

a Delaware Corporation;

# RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

# SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

# SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

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BIRMINGHAM, MI 48009

#### SEALITE, INC.,

a California Corporation;

#### **SPENCE BROTHERS**

a Michigan Corporation;

# STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

# STONE & WEBSTER, INC.

a Louisiana Corporation;

# SULZER PUMPS (US) INC.,

a Delaware Corporation;

# **TA COMPANY**

an Ohio Corporation, f/k/a The Austin Company

# TACO, INC.,

a Rhode Island Corporation;

# TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

# TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

# TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### TUTHILL CORPORATION.

a Delaware Corporation;

# TWIN DISC, INCORPORATED

a Wisconsin Corporation

# UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

# VIKING PUMP, INC.,

a Delaware Corporation;

# VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA, LLC

a Delaware Corporation, in its own right and as successor in interest to Blaw Knox

# WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

#### WEIL PUMP COMPANY,

an Illinois Corporation;

# WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

# WELTON RUBBER COMPANY,

a Michigan Corporation, formerly known as Welton Rubber & Asbestos Company;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### WHITE CONSOLIDATED INDUSTRIES, INC.

a Delaware Corporation, in its own right and as successor in interest to American Chain & Cable Company, Inc. and Schade Valve Manufacturing Co.

THE WILLIAM POWELL COMPANY,

an Ohio Corporation;

YORK RUBBER COMPANY,

a Michigan Corporation;

# YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 000312 and Judge Stephen Stobbs is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
  - 2. Pursuant to the Court's Case Management Order of June 24, 2016,

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# Plaintiff, LANA BARBER Personal Representative for the Estate of LARRY L.

BARBER, Deceased states as follows:

Deceased Plaintiff: Larry L. Barber

Decedent's Date of Birth: February 1, 1943

Decedent's Date of Death: February 7, 2016

Personal Representative: Lana Barber

Per. Rep.'s Birth Date: March 28, 1946

Personal Representative's Address: 2125 E. Surrey Rd.

Farwell, MI 48622

Spouse of Decedent: Lana Barber

Spouse's Date of Birth: March 28, 1946

Disease: Mesothelioma

Date of Decedent's Diagnosis: January 4, 2016

Decedent's Period of Exposure to

Asbestos: 1966-1968 (U.S. Navy); 1964-1966,

1968-2001 – *subject to further* 

discovery

Decedent's Occupation: Heavy Equipment Field Operator;

Laborer; Lab Analyst; Operator;

Insulator; Pipecoverer

Employer(s): Pat's Gradall; Dow Chemical

Known Job Sites and Years at Job

Sites: See Attachment "A"

Identity of all Known Non-Parties: See Attachment "B"

Reasonably Known Medical

Information: See Attachment "C"

Social Security Printout included: No

(check one) Yes \_\_\_\_ No  $\underline{X}$  (has been ordered)

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009
(248) 647-6966

Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** May 28, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# **KNOWN JOB SITES**

# **YEARS AT JOB SITES**

Pat's Gradall 1964-1966

United States Navy 1966-1968

Dow Chemical 1966, 1968-1987

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BIRMINGHAM, MI 48009

## **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

ASARCO

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

OGLEBAY NORTON

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

TURNER & NEWALL

**UGL** 

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

LAW OFFICES

SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE.

SUITE 406

This list may be incomplete and is subject to change as discovery is ongoing. S:\Complaints\DEADLINES\2019 July-Dec\BARBER, Larry SWLPf.docx

# **ATTACHMENT "C"**

All reasonably known medical information is as follows:

MidMichigan Medical Center 4000 Wellness Drive Midland, Michigan 48670 (989) 839-3000

May 6,2015 Cytology: Pleural Fluid

Reactive Mesothelial Cells

January 4, 2016 Biopsy: diagnosed with

Mesothelioma

LAW OFFICES
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BIRMINGHAM, MI 48009

#### **STATE OF MICHIGAN**

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY L. BARBER, Deceased

Plaintiff,

**ASBESTOS DOCKET** 

Case No: -NP(a) HON. PATRICIA FRESARD

vs.

**ACME INSULATION, et al** 

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

**ALL ISSUES.** 

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** May 28, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

NICHOLAS KACHMAN and ISABEL KACHMAN

ASBESTOS DOCKET Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### AFC-HOLCROFT, L.L.C.,

a Michigan Corporation, in its own right and as successor in interest to Holcroft and Pacific Industrial Furnace Company (PIFCO)

## ARMSTRONG PUMPS, INC.,

a New York Corporation;

#### AVOCET ENTERPRISES, INC.,

f/k/a Ventfabrics, Inc., an Illinois Corporation;

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BEAZER EAST, INC.,

a Delaware Corporation in its own right and as successor in interest to Koppers Company, Inc., and as parent corporation to subsidiary, Thiem Corporation;

#### THE BOOMER COMPANY,

a Michigan Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

## CLEAVER BROOKS COMPANY,

a Pennsylvania Corporation;

## COLUMBUS MCKINNON CORP,

a New York Corporation, in its own right and as Successor in Interest to Lift-Tech International, Inc. (Shaw-Box);

## **COOPER INDUSTRIES LLC,**

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation

# COPES-VULCAN,

a Delaware Corporation;

# DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### DEZURIK, INC.,

a Delaware Corporation;

#### DOW CHEMICAL DELAWARE CORPORATION,

a Delaware Corporation;

# THE DOW CHEMICAL COMPANY,

a Delaware Corporation;

# **DURAMETALLIC CORPORATION,**

a Michigan Corporation;

# EVERLASTING VALVE CO.,

a Michigan Corporation;

#### F.B. WRIGHT COMPANY,

a Michigan Corporation;

# FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

# FOSECO, INC.,

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

# GARDNER DENVER, INC.,

a Delaware Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

# GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

# **GREENE, TWEED & COMPANY,**

a Pennsylvania Corporation;

#### **IU NORTH AMERICA, INC.,**

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### JOHN CRANE, INC.,

a Delaware Corporation, f/k/a Crane Packing Company;

# JOHN E. GREEN COMPANY,

a Michigan Corporation;

## JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

# JOY GLOBAL SURFACE MINING, INC.,

a Delaware Corporation, in its own right and as successor in inerest to P&H Material Handling, P&H Minepro Services, P&H Mining Equipment, Harnischfeger Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### K & C SUPPLY, INC.,

an Ohio Corporation;

# MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in

Interest to Surface Combustion;

# **NEW COLEMAN HOLDINGS, INC.,**

a Kansas Corporation

# PARKER-HANNIFIN CORPORATION,

an Ohio Corporation, as parent corporation of Parker Packing Division;

# POWER PROCESS PIPING, INC.,

a Michigan Corporation;

# RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

# **REUNION INDUSTRIES, INC.,**

a Delaware Corporation;

# **REX/ROTO CORPORATION,**

a Michigan Corporation;

# ROGER ZATKOFF COMPANY,

a Michigan Corporation;

# RUST INTERNATIONAL, INC.,

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

# THE SAGER CORPORATION,

an Illinois Corporation, in its own right and as successor in interest to The Sager Glove Corporation;

# SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

# SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

# SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

# SIEMENS CORPORATION,

a Delaware Corporation, in its own right and as Successor in Interest to ITE Electrical Products Company and Terry Turbine;

#### SINGER SAFETY COMPANY,

an Illinois Corporation;

# STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

# THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

# THERMO FISHER SCIENTIFIC INC.,

a Delaware Corporation, f/k/a Thermo Electron Corp., in its own right & as successor in interest to Thermo Therra Tech Company, f/k/a Thermoprocess Systems Inc., in its own right & as successor in interest to Holcroft/Loftis & Holcroft, a Delaware Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### UNION PUMPS COMPANY,

f/k/a David Brown Union Pump Company, a Michigan Corporation;

UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

WARREN PUMPS, LLC,

a Delaware Corporation;

YORK RUBBER COMPANY,

a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the Count of Cook, Illinois. The action is still pending. The docket number is 17 L 012857 and Judge Clare E. McWilliams is assigned to the action.

NOW COME Plaintiffs, by and through their Attorneys, SERLING & ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Living Plaintiff and Spouse," Standard Pleading No. 11. Plaintiffs adopt by reference each and every allegation in this Master Complaint.

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

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		Management Order of June 24, 2016,
Plaintiffs, NI	ICHOLAS KACHMAN and ISAB	<b>EL KACHMAN,</b> his wife, state as
follows:		
	Living Plaintiff:	Nicholas Kachman
	Plaintiff's Date of Birth:	September 7, 1929
	Plaintiffs' Residence:	283 McMillan Rd. Grosse Pointe Farms, MI 48236
	Spouse:	Isabel Kachman
	Spouse's Date of Birth:	December 28, 1930
	Disease:	Mesothelioma
	Date of Diagnosis:	August 25, 2017
	Period of Exposure to Asbestos:	1929-1947 (exposure through father); 1942-1949, 1953-1993 – subject to further discovery
	Occupation:	Tool & Die; Various Engineering positions
	Employer:	Beaver Tool & Die; Gabriel Steel; General Motors Corporation
	Known Job Sites and Years at Job Sites:	See Attachment "A"
	Identity of all Known Non-Parties:	See Attachment "B"
	Reasonably Known Medical Information:	See Attachment "C"
	Social Security Printout included: (check one) Yes No	No $\underline{X}$ (has been ordered)
	Geographical Situs of Asbestos	

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(248) 647-6966

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

Wayne County, Michigan

Exposure:

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** April 24, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

# **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

KNOWN JOB SITES	YEARS AT JOB SITES	
Chrysler Corporation	1929-1947 (Exposure through father, Nicholas Kachman)	
Ford Motor Company, River Rouge Plant, Dearborn, MI	1942-1946	
Beaver Tool & Die	1946-1949	
Gabriel Steel, Detroit, MI	1953-1957	
General Motors Corporation	1957-1993	

LAW OFFICES
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SUITE 406
BIRMINGHAM, MI 48009

# **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

**UGL** 

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

(248) 647-6966

LAW OFFICES

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SUITE 406

BIRMINGHAM, MI 48009

This list may be incomplete and is subject to change as discovery is ongoing. C:\Users\Diane\Desktop\WORK-2020\Kachman, Nicholas SWL.docx

# ATTACHMENT "C"

All reasonably known medical information is as follows:

William Hanna MD 25869 Kelly Rd Roseville MI 48066 586-774-3780

Pulmonologist

Luis Camero MD 2581 Kelly Rd #1 Roseville MI 48066 586-777-8440

Cardiothoracic surgeon

Barbara Ann Karmanos Cancer Institute 4100 John R. St. Detroit MI 48201 Antoinette Wozniak MD 800-527-6266

Thoracic Oncologist

Beaumont Hospital 468 Cadieux Rd. Grosse Pointe MI 48230 313-473-1000

Grosse Pointe Urgent Care 20311 Mack Ave Grosse Pointe Woods MI 48236 313-499-6000

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

# IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARL W. HENNI and CHARLENE HENNI

ASBESTOS DOCKET

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NUDIAN

Plaintiff,

Case No:

HON. PATRICIA FRESARD

VS.

# ABITIBI CONSOLIDATED SALES CORPORATION,

a Delaware Corporation;

ACME INSULATION.

a Michigan Corporation;

ADIENCE, INC.

Successor in Interest to Adience Company, LP as Successor in

Interest to BMI, Inc., a Delaware Corporation;

THE ALLIANCE MACHINE COMPANY

a Delaware Corporation;

AMERICAN CRANE CORPORATION

a North Carolina Corporation;

# AMERICAN ELECTRIC POWER SERVICE CORPORATION

a Foreign Corporation;

AMERICAN STANDARD, INC.

a Delaware Corporation, f/k/a American Radiator and Standard

Sanitary Corporation, in its own right and as parent corporation

to American Blower Division and the Trane Company;

ARKEMA, INC.

a Pennsylvania Corporation, in its own right and as successor

in interest to Pennsalt Chemicals Corporation;

# ARMSTRONG INTERNATIONAL, INC.

a Michigan Corporation;

ARMSTRONG PUMPS, INC.

a New York Corporation;

#### AUBURN MANUFACTURING COMPANY

a Connecticut Corporation;

# A.W. CHESTERTON COMPANY

a Massachusetts Corporation;

# BALTIMORE ENNIS LAND COMPANY, INC.

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

BANNER ENGINEERING & SALES, INC.

a Michigan Corporation, a/k/a Joseph M. Day Company;

**BASE CORPORATION** 

a Delaware Corporation;

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SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI. 48009

(248) 617-6966

## BAYER CROPSCIENCE, INC.

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

# BECHTEL CORPORATION

a Nevada Corporation;

## THE BOOMER COMPANY

a Michigan Corporation;

# **BRYAN STEAM CORPORATION**

a New Mexico Corporation;

# BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

## **BURNHAM LLC**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division:

# CAMERON INTERNATIONAL CORPORATION

a Delaware Corporation;

# CARRIER CORPORATION

a Delaware Corporation, a/k/a Bryant Heating & Cooling Systems; Bryant Company, Payne Company, Affiliated Gas Equipment, Inc., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co. and Heil Furnaces;

# CARRIER CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Heil-Quaker Corporation;

# CARVER PUMP CO.

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

# CHERNE CONTRACTING CORPORATION

a Delaware Corporation;

## CLEAVER BROOKS COMPANY

a Pennsylvania Corporation;

# CLIFFS NATURAL RESOURCES INC.,

an Ohio Corporation;

SIN WALL

#### **CLOW CORPORATION**

a Delaware Corporation;

# COMBUSTION ENGINEERING

a Delaware Corporation, in its own right and as successor in interest to Combustion Engineering Refractories Division, Walsh Refractories and Refractory & Insulation Corp;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### COMPUDYNE CORPORATION

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

#### **COOPER INDUSTRIES LLC**

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation; CRANE CO.

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

# CROSBY VALVE, LLC

a Nevada Corporation;

# DAUBERT CHEMICAL COMPANY, INC.

an Illinois Corporation;

#### DCO LLC

à Virginia Corporation, in its own right and as successor in interest to Dana Companies, LLC, Dana Corporation, Spraycraft, Victor Gaskets, Spicer Clutch;

# DOW CHEMICAL DELAWARE CORPORATION

a Delaware Corporation;

#### THE DOW CHEMICAL COMPANY

a Delaware Corporation:

## **DURAMETALLIC CORPORATION**

a Michigan Corporation:

# EATON CORPORATION

an Ohio Corporation, in its own right and as successor in interest to Cutler-Hammer, Inc.;

#### EDWARD VOGT VALVE CO.

a North Carolina Corporation;

# E.I. DU PONT DE NEMOURS & COMPANY,

a Delaware Corporation;

# ELOF HANSSON USA INC.

a Delaware Corporation;

# ENTERGY NUCLEAR PALISADES, LLC

a Delaware Corporation, in its own right and as successor in interest to Palisades Power Plant;

#### ESCON GROUP, INC.

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric;

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BIRMINGHAM, MI. 48009

# EVERLASTING VALVE CO.

a Michigan Corporation;

F.B. WRIGHT COMPANY

a Michigan Corporation:

F.L. SMIDTH DORR-OLIVER EIMCO INC.

a Delaware Corporation;

#### FLOWSERVE CORPORATION

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### **FMC CORPORATION**

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

#### FORD MOTOR COMPANY

a Delaware Corporation;

#### FOSEGO, INC.

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

# FOSTER WHEELER ENERGY CORPORATION

a New Jersey Corporation;

# GENERAL ELECTRIC COMPANY

a New York Corporation;

# GOODALL RUBBER COMPANY

a New Jersey Corporation:

# **GOODRICH CORPORATION**

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY

an Ohio Corporation;

# GOULDS PUMPS, INCORPORATED

a Delaware Corporation;

#### GREENE, TWEED & COMPANY

a Pennsylvania Corporation;

# GRINNELL LLC

a Delaware Corporation;

# GUSMER ENTERPRISES, INC.

a New Jersey Corporation:

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation;

# HARRISON PIPING SUPPLY COMPANY

a Michigan Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

# HONEYWELL INTERNATIONAL, INC.

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

HOWARD ELECTRIC COMPANY

a Michigan Corporation;

HYDRONIC SUPPLY & ENGINEERING, INC.

a Michigan Corporation;

IMO INDUSTRIES, INC.

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

# INDUSTRIAL HOLDINGS CORPORATION

a New York Corporation f/k/a Carborundum Corporation;

#### INGERSOLL-RAND COMPANY

a New Jersey Corporation, in its own right and as successor in interest to Blaw-Knox;

#### INTERNATIONAL PAPER COMPANY,

a New York Corporation;

# ITT INDUSTRIES, INC.

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves;

# IU NORTH AMERICA, INC.

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### J-M MANUFACTURING COMPANY, INC.

à Delaware Corporation;

# JOHN E. GREEN COMPANY

a Michigan Corporation;

# JOHNSON CONTROLS, INC.

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

# K & C SUPPLY, INC.

an Ohio Corporation;

K. L. McCOY AND ASSOCIATES, INC.

a Michigan Corporation;

## KELSEY HAYES COMPANY.

a Delaware Corporation;

# KERR PUMP AND SUPPLY, INC.

a Michigan Corporation:

# KIMBERLEY-CLARK GLOBAL SALES, LLC

a Delaware Corporation;

# KRONES, INC.

a Wisconsin Corporation, in its own right and as the parent company of W.M. Sprinkman, LLC;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE SUITE 406 BIRMINGHAM, MI 48009

## LIMBACH COMPANY LLC

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

# MARATHON PETROLEUM COMPANY LP

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

## THE MARLEY-WYLAIN COMPANY

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

# MCMASTER-CARR SUPPLY COMPANY

an Illinois Corporation;

#### MCWANE, INC.

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

# MÉTROPOLITAN LIFE INSURANCE COMPANY a/k/a Metropolitan Insurance Co. a Delaware Corporation:

MICHIGAN VALVE AND FOUNDRY CORPORATION

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

# MIDWEST VALVE & FITTING COMPANY

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

# MORGAN ENGINEERING SYSTEMS, INC.

a Delaware Corporation;

#### MW CUSTOM PAPERS, LLC

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

NAGLE PUMPS, INC.

an Ohio Corporation;

# THE NASH ENGINEERING COMPANY

a Connecticut Corporation:

# NEENAH PAPER, INC.,

a Delaware Corporation, in its own right and as successor in interest to Fibermark, Inc.:

# NEW COLEMAN HOLDINGS, INC.

a Kansas Corporation;

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## PARKER-HANNIFIN CORPORATION

an Ohio Corporation, as parent corporation of Parker

Packing Division;

PFIZER, INC.

a Delaware Corporation;

PHARMACIA & UPJOHN LLC,

a Delaware Corporation;

PHARMACIA LLC

a Delaware Corporation, a/k/a Monsanto Chemical Company;

POWER PROCESS PIPING, INC.

a Michigan Corporation;

R. L. DEPPMANN COMPANY

a Michigan Corporation;

RADIATOR SPECIALTY COMPANY

a North Carolina Corporation;

REUNION INDUSTRIES, INC.

a Delaware Corporation;

REX/ROTO CORPORATION

a Michigan Corporation;

RIC-WIL; INC.

an Ohio Corporation;

RILEY POWER, INC.

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

ROGER ZATKOFF COMPANY

a Michigan Corporation;

ROPER PUMP COMPANY

a Delaware Corporation;

**ROTH PUMP COMPANY** 

a Delaware Corporation;

RUST INTERNATIONAL, INC.

a Delaware Corporation in its own right and as successor in

interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

RUTHMAN PUMP & ENGINEERING, INC.

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

SATTERLUND SUPPLY COMPANY

a Michigan Corporation;

SCHAD BOILER SETTING COMPANY

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

S.D. WARREN COMPANY,

a Pennsylvania Corporation;

SEAWAY MECHANICAL CONTRACTORS, INCORPORATED

a Michigan Corporation;

SHAW-WINKLER, INC.

a Michigan Corporation;

SOCONY MOBIL COMPANY, INC.

a Delaware Corporation, a/k/a Mobil Oil Corporation;

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## SPENCE BROTHERS

a Michigan Corporation;

SQUARE D COMPANY

a Delaware Corporation;

STANDARD FUEL ENGINEERING COMPANY

a Michigan Corporation;

THE STANLEY-CARTER COMPANY

a Michigan Corporation;

STERLING FLUID SYSTEMS (USA), LLC

f/k/a Peerless Pump Company, a Delaware Corporation;

STONE & WEBSTER, INC.

a Louisiana Corporation;

SULZER PUMPS (US) INC.

a Delaware Corporation;

SUNOCO, INC (R&M)

a Pennsylvania Corporation;

TA COMPANY

an Ohio Corporation, f/k/a The Austin Company;

TACO, INC.

a Rhode Island Corporation;

THIEM CORPORATION

a/k/a Universal Refractories, Inc., a Delaware Corporation;

TRANS-PUMPS, INC.

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.

Successor in Interest to Union Carbide, a New York Corporation;

UNION PUMPS COMPANY

f/k/a David Brown Union Pump Company, a Michigan Corporation;

UNIROYAL, INC.

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

VELAN VALVE CORP.

a Delaware Corporation;

# VÍACOM INTERNATIONAL, INC.

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor in Interest to Westinghouse Electric Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric & Manufacturing Company, in its own right and as Successor in Interest to Luxaire, Inc.;

VIKING PUMP, INC.

a Delaware Corporation;

W. J. O'NEIL CO.

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

W. M. SPRINKMAN, LLC

a Wisconsin Corporation;

WARREN PUMPS, LLC

a Delaware Corporation;

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#### WAYNE/SCOTT FETZER COMPANY

a Delaware Corporation, f/k/a Wayne Combustion System;

## WEC ENERGY GROUP INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Presque Isle Power Plant;

#### WEIR VALVES & CONTROLS USA, INC.

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

# WELTON RUBBER COMPANY

a Michigan Corporation, formerly known as Welton Rubber & Asbestos Company;

# WESTROCK COMPANY,

a Delaware Corporation, in its own right and as successor in interest to MeadWestvaco Corp.;

# THE WILLIAM POWELL COMPANY

an Ohio Corporation;

## WOLVERINE POWER SUPPLY COOPERATIVE, INC.,

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

# Defendants.

ERIC B: ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT AND JURY DEMAND (WITH PREMISES LIABILITY COUNT)

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Wayne County Circuit Court. The action is no longer pending. The docket number was 87-705342-NP and Judge James E. Mies was assigned to the action.

NOW COME Plaintiffs, by and through their Attorney, SERLING &

ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

In compliance with Wayne County Circuit Court Judge Robert J.

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE
SUITE 406
BIRMINGRAM, MI 48009

Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint-Living Plaintiff and Spouse," Standard Pleading No. 13. Plaintiffs adopt by reference each and every allegation in this Master Complaint.

Pursuant to the Court's Case Management Order of June 24, 2016,
 Plaintiffs, CARL W. HENNI and CHARLENE HENNI, his wife, state as follows:

PREMISES LIABILITY COUNT AS TO DEFENDANTS

ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASE CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC.

A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13.

B. That during the period 1950-1985, Plaintiff was exposed to toxic levels of environmental pollutants including asbestos fibers while in the course of his employment with various employers working on a project over which Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU

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PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC. FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC. MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., had supervision and control at a building owned by Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN Sec. 35. 3543 ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP. NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., located in the county of, including but not limited, to Wayne.

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4.8

C. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area of the

building in which he was exposed to asbestos containing materials.

- D. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area where asbestos containing material was used.
- E. That the work was being undertaken by the Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., through their employees and the agency of various contractors and subcontractors, including Plaintiff's employer(s), and that the work in which the Plaintiff was engaged in at the time of this occurrence was inherently dangerous work.
- F. That it was then and there the duty of the Defendants, ABITIBI CONSOLIDATED SALES CORPORATION, AMERICAN ELECTRIC POWER SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE

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Same Subject of the same

CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., to provide a safe place for invitees such as the Plaintiff and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.

- G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Plaintiff to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.
- H. That the Defendants, ABITIBI CONSOLIDATED SALES ELECTRIC POWER CORPORATION, AMERICAN SERVICE CORPORATION, ARKEMA, INC., BASF CORPORATION, CLIFFS NATURAL RESOURCES INC., DCO LLC, DOW CHEMICAL DELAWARE CORPORATION, THE DOW CHEMICAL COMPANY, E.I. DU PONT DE NEMOURS & COMPANY, ENTERGY NUCLEAR PALISADES, LLC, FORD

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MOTOR COMPANY, INTERNATIONAL PAPER COMPANY, KELSEY HAYES COMPANY, KIMBERLEY-CLARK GLOBAL SALES, LLC, MARATHON PETROLEUM COMPANY LP, NEENAH PAPER, INC., PHARMACIA & UPJOHN LLC, PHARMACIA LLC, S.D. WARREN COMPANY, SOCONY MOBIL COMPANY, INC., SUNOCO, INC (R&M), WEC ENERGY GROUP INC., WESTROCK COMPANY, WOLVERINE POWER SUPPLY COOPERATIVE, INC., breached their duties and were negligent in the following manner:

- (a) failed to provide adequate and proper ventilation;
- (b) failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;
- (c) failed to provide a safe place for Plaintiff to work;
- (d) failed to safely and properly operate and maintain the construction site premises;
- failed to inspect the premises for dangerous and/or hazardous conditions;
- (f) employed a careless and/or negligent general contractor;
- (g) maintained a right of control over the construction work and were negligent in their supervision and job inspection;
- (h) failed to warn Plaintiff of the dangerous and/or hazardous condition that they knew or should have known existed.
- I. That in the happening of the aforesaid incident, Plaintiff was not guilty of negligence or of contributory negligence, but as a direct and proximate result of Defendants' negligence, Plaintiff suffered harmful exposure to asbestos fibers causing and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental

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anguish, discomfort and inconvenience.

WHEREFORE, Plaintiff demands judgment against the Defendants herein for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be entitled, together with interests, costs and attorneys fees.

3. In addition to Paragraphs 1 and 2 herein, and Pursuant to the Court's Case Management Order of November 21, 2003, Plaintiffs, CARL W. HENNI and CHARLENE HENNI, his wife, state as follows:

Living Plaintiff:

Carl W. Henni

Plaintiff's Date of Birth:

December 5, 1927

Plaintiffs' Residence:

4402 Mystic Blue Highway

Ft. Myers, FL 33966

Spouse:

Charlene Henni

Spouse's Date of Birth:

September 12, 1934

Disease:

Lung Cancer

Date of Diagnosis:

October 8, 2019

Period of Exposure to Asbestos:

1950-1985 - subject to further

discovery

Occupation:

Boilermaker

Employer:

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included:

No

(check one)

Yes

No X

(has been ordered)

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Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 19, 2020

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI. 48009

## ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# KNOWN JOB SITES

## YEARS AT JOB SITES

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Wyandotte Chemical, Marathon Oil Refinery, Mobil Oil Refinery, White Star Refinery, Monsanto, Pennsalt, Dow Chemical, Sunoco, Scott Paper, Dana Corp., Foster Wheeler, Palisades Power Plant, Cook Nuclear Plant etc., Detroit, Metro Detroit, MI

1950-1985

Various Detroit Edison Plants Detroit, Metro Detroit, MI

1950-1985

Various commercial jobsites, Detroit, Metro Detroit, MI

1950-1985

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# ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

BONDEX

**BURNS & ROE** 

**CELOTEX CORPORATION** 

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

FLINTKOTE

**GAF CORPORATION** 

GARLOCK

GEORGIA PACIFIC

H.K. PORTER

HALLIBURTON ...

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVARNER** 

LESLIE

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

OWENS ILLINOIS .

PITTSBURGH CORNING CORPORATION

PLIBRIÇO COMPANY

QUIGLEY

**RAYBESTOS-MANHATTAN** 

SEPCO

THAN ...

TURNER & NEWALL

HGI.

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

This list may be incomplete and is subject to change as discovery is ongoing.

S:\Complaints\DEADLINES\2020 Jan-June\HENNI, Carl PremBril.docx

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## ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Alim Karin MD Lee Physician Group - At the Sanctuary 8960 Colonial Center Dr Ste 300 Fort Myers, FL 33905

Primary care - 06/2019 - Current

Dr. Donald Harris 8960 Colonial Center Dr Ste 300 Fort Myers, FL 33905

Previous Primary-care 2013-06/2019

Dr. Sunil Lalla 14171 Metropolis Ave Ste 202 Fort Myers, FL 33912

Lung Doctor - 09/2019 - Current

Dr. Elizabeth Cosmai Florida Heart Associates 1550 Barkley Cir Fort Myers, FL 33907 (239) 938-2000

Current Heart Doctor 2016 - current

Dr. Rubin – Retired 1550 Barkley Cir Fort Myers, FL, 33907

Previous heart doctor 2002-2015

Dr. Liliana Bustamante 1030 Commerce Creek Blvd. Cape Coral, FL 33909

Current Oncologist 10/13/2019

Dr. David Harris Gulf Coast Hospital

Prostate 2017

Warner Robin Hospital Georgia

Neck Surgery – 2007 Colonoscopy

Pneumonia – 2009

Southwest Fl. Regional Hospital Fort Myers, FL 33901

Heart attack - stent 2002

University of Ann Arbor MI

Ulcer surgery – 1961(?)

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#### STATE OF MICHIGAN

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARL W. HENNI and CHARLENE HENNI

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

ASBESTOS DOCKET

VS.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. **Attorney for Plaintiffs** 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

## JURY DEMAND

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 19, 2020

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

Plaintiffs,

<u>ASBESTOS DOCKET</u> Case No. 20-008150-NP HON. PATRICIA FRESARD

vs.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# EX-PARTE ORDER AUTOMATICALLY AMENDING COMPLAINT TO ADD PARTY DEFENDANTS

At a session of said Court held in the City-County Building, City of Detroit, County of Wayne, State of Michigan on: 7/21/2020

Presiding: PATRICIA FRESARD

Circuit Court Judge

This matter having come on to be heard upon motion of Plaintiffs, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's Complaint in the above-captioned matter may be and hereby is amended to add the following party defendants:

YORK RUBBER COMPANY, a Michigan Corporation;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

IT IS FURTHER ORDERED AND ADJUDGED that the Wayne County Clerk's office shall issue the summons(es) to be submitted by Plaintiff for the above defendant(s) effective on the date of this Order and expiring 91 days thereafter:

/s/ Patricia Fresard 7/21/2020

CIRCUIT COURT JUDGE
STORMHAINTSTOTHER TOWN STATE OF THE PLACE OF THE P

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

Plaintiff,

ASBESTOS DOCKET
Case No: 20-008150-NP
HON. PATRICIA FRESARD

VS.

ACME INSULATION,

a Michigan Corporation;

ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

**BECHTEL CORPORATION** 

a Nevada Corporation

BEHLER-YOUNG CO.,

a Michigan Corporation;

THE BOOMER COMPANY,

a Michigan Corporation;

BURNHAM LLC,

a Delaware Coproration, f/k/a Burnham Corporation;

BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

CARVER PUMP CO.,

a Delaware Corporation;

CHERNE CONTRACTING CORPORATION

a Delaware Corporation

**CLEAVER BROOKS COMPANY,** 

a Pennsylvania Corporation;

**CLOW CORPORATION,** 

a Delaware Corporation;

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#### COOPER INDUSTRIES LLC.

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

#### CROSBY VALVE, LLC,

a Nevada Corporation;

## DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

## DURAMETALLIC CORPORATION,

a Michigan Corporation;

## EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

#### ESCON GROUP, INC.

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric

#### EVERLASTING VALVE CO.,

a Michigan Corporation;

## F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

## FORD MOTOR COMPANY,

a Delaware Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

## GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

#### THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation

#### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

## J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation:

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

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## JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K & C SUPPLY, INC.,

an Ohio Corporation;

## O.C. KECKLEY COMPANY,

an Illinois Corporation;

#### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

#### THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; Internat;

#### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

#### MIDLAND ROSS CORPORATION.

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

#### MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

#### NAGLE PUMPS, INC.,

an Ohio Corporation;

#### THE NASH ENGINEERING COMPANY.

a Connecticut Corporation;

## NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation;

#### NIBCO, INC.,

an Indiana Corporation;

## POWER PROCESS PIPING, INC.,

a Michigan Corporation:

#### RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

#### RIC-WIL, INC.,

an Ohio Corporation;

#### ROGER ZATKOFF COMPANY.

a Michigan Corporation;

#### ROPER PUMP COMPANY.

a Delaware Corporation;

#### ROTH PUMP COMPANY,

a Delaware Corporation;

## RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

#### SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEALITE, INC.,

a California Corporation;

## SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

#### **SPENCE BROTHERS**

a Michigan Corporation

## STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

## THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

#### STONE & WEBSTER, INC.

a Louisiana Corporation

#### SULZER PUMPS (US) INC.,

a Delaware Corporation;

#### TACO, INC.,

a Rhode Island Corporation;

#### TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

#### THERMON, INC.,

a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company;

#### TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

#### TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### **TUTHILL CORPORATION,**

a Delaware Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VELAN VALVE CORP.,

a Delaware Corporation;

## VIKING PUMP, INC.,

a Delaware Corporation;

## WARREN PUMPS, LLC,

a Delaware Corporation;

#### WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406

BIRMINGHAM, MI 48009

#### WEIL PUMP COMPANY,

an Illinois Corporation;

## WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

#### YORK INTERNATIONAL CORPORATION.

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

And

## YORK RUBBER COMPANY

a Michigan Corporation;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

## FIRST AMENDED COMPLAINT

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 001306 and Judge Stephen Stobb is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff

LAW OFFICES
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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

adopts by reference each and every allegation in this Master Complaint.

Pursuant to the Court's Case Management Order of November 21,
 Plaintiff, SCOTT L. McCAUL, Personal Representative for the Estate of
 ROBERT L. McCAUL, Deceased states as follows:

Deceased Plaintiff:

Robert L. McCaul

Decedent's Date of Birth:

December 31, 1932

Decedent's Date of Death:

May 30, 2018

Personal Representative:

Scott L. McCaul

Per. Rep.'s Birth Date:

May 14, 1956

Personal Representative's Address:

219 Englehardt Bay City, MI 48706

Spouse of Decedent:

Pauline McCaul

Spouse's Date of Birth:

August 21, 1933

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

July 22, 2016

Decedent's Period of Exposure to

Asbestos:

1951-1953, 1955-1990 - subject to

further discovery

Decedent's Occupation:

Laborer/Inspector;

Employer(s):

Ferro Stamping & Manufacturing

Co.; Dow Chemical

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

Social Security Printout included:			No	
(check one)	Yes	No.	X	(has been ordered)

Geographical Situs of Asbestos

Exposure: Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** July 7, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUTTE 406
BIRMINGHAM, MI 48009

## **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

## **KNOWN JOB SITES**

## YEARS AT JOB SITES

Ferro Stamping & Manufacturing Co.

1951-1953, 1955-1956

Dow Chemical

1956-1990

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

## ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

LAW OFFICES

SERLING & ABRAMSON, P.C.

280 N. OLD WOODWARD AVE.

SUITE 406

This list may be incomplete and is subject to change as discovery is ongoing. SAComplaints\DEADLINES\2019 July-Dec\McCAUL, Robert SWLPf.doex

## ATTACHMENT "C"

All reasonably known medical information is as follows:

University of Michigan Health System 1500 E. Medical Center Drive Ann Arbor, MI 48109 (734) 936-4000

Dr. Robert Jones 4011 Orchard Dr. Suite 3004 Midland, MI 48640 (989) 488-5410

Cardiothoracic Surgeon

Dr, Tannu Sahay 315 W. Warwick Dr. Suite C Alma, MI 48801 (989) 463-9307

Oncologist

Dr. Christopher Murray 1910 Pine Ave. Alma, MI 48801 (989) 463-3101

Primary Care Physician

Mid-Michigan Health 4000 Wellness Dr. Midland, MI 48670 (989) 839-3000

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **STATE OF MICHIGAN**

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

ACME INSULATION,

a Michigan Corporation;

ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor

in Interest to BMI, Inc., a Delaware Corporation;

AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans:

**BECHTEL CORPORATION** 

a Nevada Corporation

BEHLER-YOUNG CO.,

a Michigan Corporation;

THE BOOMER COMPANY,

a Michigan Corporation;

BURNHAM LLC.

a Delaware Coproration, f/k/a Burnham Corporation;

BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in

its own right and as parent corporation to Byron Jackson

Pump Division;

CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

CARVER PUMP CO.,

a Delaware Corporation;

CHERNE CONTRACTING CORPORATION

a Delaware Corporation

CLEAVER BROOKS COMPANY,

a Pennsylvania Corporation;

**CLOW CORPORATION,** 

a Delaware Corporation;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406

BIRMINGHAM, MI 48009 (248) 647-6966

#### COOPER INDUSTRIES LLC,

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

## CROSBY VALVE, LLC,

a Nevada Corporation;

## DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

## **DURAMETALLIC CORPORATION,**

a Michigan Corporation;

#### EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

#### **ESCON GROUP, INC.**

a Michigan Corporation, in its own right and as successor in interest to Essexville Electric

#### EVERLASTING VALVE CO.,

a Michigan Corporation;

## F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

## FORD MOTOR COMPANY,

a Delaware Corporation;

## GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

## THE GORMAN-RUPP COMPANY,

an Ohio Corporation, in its own right and as successor in interest to C.H. Wheeler Manufacturing Company;

#### HARLAN ELECTRIC COMPANY

a Michigan Corporation

## HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

#### **IU NORTH AMERICA, INC..**

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

## J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

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SUITE 406
BIRMINGHAM. MI 48009

#### JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

K & C SUPPLY, INC.,

an Ohio Corporation;

O.C. KECKLEY COMPANY,

an Illinois Corporation;

KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

#### THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; Internat;

#### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

#### MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

#### MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in interest to The Mead Corporation;

NAGLE PUMPS, INC.,

an Ohio Corporation;

#### THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

#### NETZSCH PUMPS NORTH AMERICA, LLC,

a Delaware Corporation;

NIBCO, INC.,

an Indiana Corporation;

#### POWER PROCESS PIPING, INC.,

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

RIC-WIL, INC.,

an Ohio Corporation;

#### ROGER ZATKOFF COMPANY,

a Michigan Corporation;

#### ROPER PUMP COMPANY,

a Delaware Corporation;

## ROTH PUMP COMPANY,

a Delaware Corporation;

#### RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

## SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

#### SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEALITE, INC.,

a California Corporation;

## SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

#### **SPENCE BROTHERS**

a Michigan Corporation

## STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

## STANDCO INDUSTRIES, INC.,

a Delaware Corporation, in its own right and as successor in interest to Sterling Packing and Gasket Company, Inc.;

## THE STANLEY-CARTER COMPANY,

a Michigan Corporation;

#### STONE & WEBSTER, INC.

a Louisiana Corporation

## SULZER PUMPS (US) INC.,

a Delaware Corporation;

#### TACO, INC.,

a Rhode Island Corporation;

#### TATE ANDALE, INC.,

a Maryland Corporation, in its own right and successor in interest to Andale Valves;

#### THERMON, INC.,

a Texas Corporation, in its own right and as successor in interest to Thermon Manufacturing Company;

#### TKD, INC.,

a California Corporation, in its own right and as successor in interest to Johnston Pump Company;

#### TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### TUTHILL CORPORATION,

a Delaware Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VELAN VALVE CORP.,

a Delaware Corporation;

## VIKING PUMP, INC.,

a Delaware Corporation;

#### WARREN PUMPS, LLC,

a Delaware Corporation;

## WATTS WATER TECHNOLOGIES, INC.,

a Delaware Corporation;

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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

WEIL PUMP COMPANY,

an Illinois Corporation;

WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

## NOTICE OF COMPLAINT IN WRONGFUL DEATH CASE COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in the Circuit Court for the County of Madison, Illinois. The action is still pending. The docket number is 16 L 001306 and Judge Stephen Stobb is assigned to the action.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of November 21, 2003, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint—Deceased Plaintiff," Standard Pleading No. 12. Plaintiff adopts by reference each and every allegation in this Master Complaint.
  - 2. Pursuant to the Court's Case Management Order of November 21,

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

2003, Plaintiff, SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased states as follows:

Deceased Plaintiff:

Robert L. McCaul

Decedent's Date of Birth:

December 31, 1932

Decedent's Date of Death:

May 30, 2018

Personal Representative:

Scott L. McCaul

Per. Rep.'s Birth Date:

May 14, 1956

Personal Representative's Address:

219 Englehardt

Bay City, MI 48706

Spouse of Decedent:

Pauline McCaul

Spouse's Date of Birth:

August 21, 1933

Disease:

Mesothelioma

Date of Decedent's Diagnosis:

July 22, 2016

Decedent's Period of Exposure to

Asbestos:

1951-1953, 1955-1990 – *subject to* 

further discovery

Decedent's Occupation:

Laborer/Inspector;

Employer(s):

Ferro Stamping & Manufacturing

Co.; Dow Chemical

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

(check one) Yes

No X (has been ordered)

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

Geographical Situs of Asbestos Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

**DATED:** June 29, 2020

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **ATTACHMENT "A"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### **KNOWN JOB SITES**

## **YEARS AT JOB SITES**

Ferro Stamping & Manufacturing Co.

1951-1953, 1955-1956

**Dow Chemical** 

1956-1990

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **ATTACHMENT "B"**

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

**CELOTEX CORPORATION** 

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

LESLIE

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**OUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

THAN

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

BIRMINGHAM, MI 48009

This list may be incomplete and is subject to change as discovery is ongoing. S:\Complaints\DEADLINES\2019 July-Dec\McCAUL, Robert SWLPf.docx

(248) 647-6966

LAW OFFICES SERLING & ABRAMSON, P.C.

280 N. OLD WOODWARD AVE.

SUITE 406

#### **ATTACHMENT "C"**

All reasonably known medical information is as follows:

University of Michigan Health System 1500 E. Medical Center Drive Ann Arbor, MI 48109 (734) 936-4000

Dr. Robert Jones 4011 Orchard Dr. Suite 3004 Midland, MI 48640 (989) 488-5410

Cardiothoracic Surgeon

Dr, Tannu Sahay 315 W. Warwick Dr. Suite C Alma, MI 48801 (989) 463-9307

Oncologist

Dr. Christopher Murray 1910 Pine Ave. Alma, MI 48801 (989) 463-3101

Primary Care Physician

Mid-Michigan Health 4000 Wellness Dr. Midland, MI 48670 (989) 839-3000

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### **STATE OF MICHIGAN**

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased

ASBESTOS DOCKET

Plaintiff,

Case No: -NP(a)
HON. PATRICIA FRESARD

vs.

ACME INSULATION, et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

## **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

**ALL ISSUES.** 

**DATED:** June 29, 2020

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### STATE OF MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE WALCZYK, Personal Representative for the Estate of RICHARD WALCZYK Deceased

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

vs.

#### ABB, INC.,

a North Carolina Corporation, in its own right and as successor in interest to Asea Brown Boveri, Inc., BBC Brown Boveri, Inc. and Brown Boveri Electric, Inc.;

ADIENCE, INC.,

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### All ACQUISITION LLC

a Pennsylvania limited liability company, formerly AII Acquisition Corp., a Delaware Corporation, in its own right and as successor in interest to Athlone Industries, Inc. and Holland Furnace Co.

#### THE ALLIANCE MACHINE COMPANY,

a Delaware Corporation;

## AMERICAN CRANE CORPORATION,

a North Carolina Corporation;

## AMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### AMPHENOL CORPORATION,

a Delaware Corporation;

#### A.O. SMITH

a Delaware Corporation, in its own right and as successor in interest to Sawyer Electrical Manufacturing Co.

## ARMSTRONG INTERNATIONAL, INC.,

a Michigan Corporation;

## ARMSTRONG PUMPS, INC.,

a New York Corporation;

#### AUBURN MANUFACTURING COMPANY,

a Connecticut Corporation;

#### AVOCET ENTERPRISES, INC.

f/k/a Ventfabrics, Inc., an Illinois Corporation

#### A.W. CHESTERTON COMPANY,

a Massachusetts Corporation;

LAW OFFICES SERLING & ABRAMSON; B.E.

SUITE 406

\*

#### BALTIMORE ENNIS LAND COMPANY, INC.,

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BANNER ENGINEERING & SALES, INC.,

a Michigan Corporation, a/k/a Joseph M. Day Company;

#### **BASF CORPORATION**

a Delaware Corporation

#### BAYER CROPSCIENCE, INC.,

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

#### THE BOOMER COMPANY,

a Michigan Corporation;

#### BRYAN STEAM CORPORATION,

a New Mexico Corporation;

#### BRYAN STEAM, LLC,,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;

#### **BURNHAM LLC,**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.,

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

#### CAMERON INTERNATIONAL CORPORATION,

a Delaware Corporation;

#### CARRIER CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Heil-Quaker Corporation, a/k/a Bryant Heating & Cooling Systems, Bryant Company, Payne Company, AFFILIATED GAS EQUIPMENT, INC., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co. and Heil Furnaces;

#### CARRIER CORPORATION,

a Delaware Corporation,;

#### **CARVER PUMP CO.,**

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION,

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

#### **CLEAVER BROOKS COMPANY,**

a Pennsylvania Corporation;

#### **CLOW CORPORATION,**

a Delaware Corporation;

#### COMPUDYNE CORPORATION,

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

LAW OFFICES
SERLING & ABRAMSON, B.E.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM. MI 48009

#### COOPER INDUSTRIES LLC,

an Ohio Corporation, in its own right and as Successor to Crouse-Hinds Co. and The Cooper Bessemer Corp., and as Successor in Interest to McGraw-Edison Co., Wagner Electric Corp., Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

#### **CRANE CO.,**

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

#### CROSBY VALVE, LLC,

a Nevada Corporation;

#### DAUBERT CHEMICAL COMPANY, INC.,

an Illinois Corporation;

## DURAMETALLIC CORPORATION,

a Michigan Corporation;

#### EATON CORPORATION,

an Ohio Corporation, in its own right and as successor in interest to Cutler-Hammer, Inc.;

#### ECR INTERNATIONAL, INC.

a New York Corporation, in its own right and as successor in interest to Airco Furnaces, Dunkirk-Olsen Furnaces, Olsen Furnace Olsen Technology, The Utica Companies and Oneida Royal

#### EDWARD VOGT VALVE CO.,

a North Carolina Corporation;

#### **ELOF HANSSON USA INC.,**

a Delaware Corporation;

#### EVERLASTING VALVE CO.,

a Michigan Corporation;

#### F.B. WRIGHT COMPANY,

a Michigan Corporation;

#### F.L. SMIDTH DORR-OLIVER EIMCO INC.,

a Delaware Corporation;

#### FLOWSERVE CORPORATION,

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.,

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### FMC CORPORATION,

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

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BIRMINGHAM, MI 48009

#### FORD MOTOR COMPANY,

a Delaware Corporation;

#### FOSECO, INC.,

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

#### FOSTER WHEELER ENERGY CORPORATION,

a New Jersey Corporation;

#### GENERAL ELECTRIC COMPANY,

a New York Corporation;

#### GOODALL RUBBER COMPANY,

a New Jersey Corporation;

#### GOODRICH CORPORATION,

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY,

an Ohio Corporation;

#### GOULDS PUMPS, INCORPORATED,

a Delaware Corporation;

#### GREENE, TWEED & COMPANY,

a Pennsylvania Corporation;

#### GRINNELL LLC,

a Delaware Corporation;

#### **GUSMER ENTERPRISES, INC.,**

a New Jersey Corporation, in its own right and as successor in interest to The Cellulo Company, Filter Materials, Inc. and A. Gusmer, Inc.;

#### HARRISON PIPING SUPPLY COMPANY,

a Michigan Corporation;

## HONEYWELL INTERNATIONAL, INC.,

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

#### HOWARD ELECTRIC COMPANY,

a Michigan Corporation;

#### IMO INDUSTRIES, INC.,

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

#### INDUSTRIAL HOLDINGS CORPORATION,

a New York Corporation f/k/a Carborundum Corporation;

#### ITT INDUSTRIES, INC.,

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves;

#### IU NORTH AMERICA, INC.,

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### J-M MANUFACTURING COMPANY, INC.,

a Delaware Corporation;

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#### JOHN E. GREEN COMPANY,

a Michigan Corporation;

#### JOHNSON CONTROLS, INC.,

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K. L. McCOY AND ASSOCIATES, INC.,

a Michigan Corporation;

K & C SUPPLY, INC.,

an Ohio Corporation;

#### KERR PUMP AND SUPPLY, INC.,

a Michigan Corporation;

#### LENNOX INDUSTRIES, INC.

an Iowa Corporation, in its own right and as successor in interest to Aireflo Furnaces, Armstrong Furnace, Ducane Furnaces, Magic Chef Furnace

#### LIMBACH COMPANY LLC,

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

#### MARATHON PETROLEUM COMPANY LP,

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

#### THE MARLEY-WYLAIN COMPANY,

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

#### MCMASTER-CARR SUPPLY COMPANY,

an Illinois Corporation;

#### MCWANE, INC.,

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

#### METROPOLITAN LIFE INSURANCE COMPANY,

a/k/a Metropolitan Insurance Co. a Delaware Corporation;

#### MICHIGAN VALVE AND FOUNDRY CORPORATION,

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION,

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion;

#### MIDWEST VALVE & FITTING COMPANY,

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

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#### MORGAN ENGINEERING SYSTEMS, INC.,

a Delaware Corporation;

#### MW CUSTOM PAPERS, LLC,

a Delaware Corporation, in its own right and as successor in

interest to The Mead Corporation;

NAGLE PUMPS, INC., an Ohio Corporation;

## THE NASH ENGINEERING COMPANY,

a Connecticut Corporation;

## NEW COLEMAN HOLDINGS, INC.

a Kansas Corporation

## PARKER-HANNIFIN CORPORATION,

an Ohio Corporation, as parent corporation of Parker Packing Division;

#### PFIZER, INC.,

a Delaware Corporation;

#### POWER PROCESS PIPING, INC.,

a Michigan Corporation;

#### R. L. DEPPMANN COMPANY,

a Michigan Corporation;

## RADIATOR SPECIALTY COMPANY,

a North Carolina Corporation;

## RANKIN AUTOMATION COMPANY, LLC,

a Delaware Corpoarion;

#### **REUNION INDUSTRIES, INC.,**

a Delaware Corporation;

#### **REX/ROTO CORPORATION,**

a Michigan Corporation;

#### RHEEM MANUFACTURING COMPANY

a Delaware Corporation

RIC-WIL, INC.,

an Ohio Corporation;

#### RILEY POWER, INC.,

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

#### ROGER ZATKOFF COMPANY,

a Michigan Corporation;

#### ROPER PUMP COMPANY,

a Delaware Corporation;

#### ROTH PUMP COMPANY,

a Delaware Corporation;

#### RUST INTERNATIONAL, INC.,

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

## RUTHMAN PUMP & ENGINEERING, INC.,

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

## SATTERLUND SUPPLY COMPANY,

a Michigan Corporation;

LAW OFFICES SERLING & ABRAMSON; B.C. 280 n. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

## SCHAD BOILER SETTING COMPANY,

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

SEALITE, INC.,

a California Corporation;

## SEAWAY MECHANICAL CONTRACTORS, INCORPORATED,

a Michigan Corporation;

SHAW-WINKLER, INC.,

a Michigan Corporation;

#### SQUARE D COMPANY,

a Delaware Corporation;

#### STANDARD FUEL ENGINEERING COMPANY,

a Michigan Corporation;

#### THE STANLEY-CARTER COMPANY.

a Michigan Corporation;

## STERLING FLUID SYSTEMS (USA), LLC,

f/k/a Peerless Pump Company, a Delaware Corporation;

#### SULZER PUMPS (US) INC.,

a Delaware Corporation;

TACO, INC.,

a Rhode Island Corporation;

#### THIEM CORPORATION,

a/k/a Universal Refractories, Inc., a Delaware Corporation;

TRANS-PUMPS, INC.,

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

#### UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.,

Successor in Interest to Union Carbide, a New York Corporation;

#### UNION PUMPS COMPANY,

f/k/a David Brown Union Pump Company, a Michigan Corporation;

#### UNIROYAL, INC.,

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VIACOM INTERNATIONAL, INC.,

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor in Interest to Westinghouse Electric Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric & Manufacturing Company, in its own right and as Successor in Interest to Luxaire, Inc.;

#### VIKING PUMP, INC.,

a Delaware Corporation;

#### W. J. O'NEIL CO.,

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

#### W. M. SPRINKMAN, LLC,

a Wisconsin Corporation;

## WARREN PUMPS, LLC,

a Delaware Corporation;

#### WAYNE/SCOTT FETZER COMPANY,

a Delaware Corporation, f/k/a Wayne Combustion System;

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#### WEIL-MCLAIN

a Delaware Corporation

#### WEIR VALVES & CONTROLS USA, INC.,

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

#### WELTON RUBBER COMPANY,

a Michigan Corporation, formerly known as Welton Rubber

& Asbestos Company;

#### THE WILLIAM POWELL COMPANY,

an Ohio Corporation;

#### YORK RUBBER COMPANY,

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION,

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

Defendants.

ERIC B. ABRAMSON (P60949)
SERLING & ABRAMSON, P.C.
Attorney for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

## NOTICE OF COMPLAINT COMPLAINT (WITH PREMISES LIABILITY COUNT)

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

NOW COMES Plaintiff, by and through her Attorney, SERLING & ABRAMSON, P.C., and for her Complaint against each Defendant, state as follows:

1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Deceased Plaintiff," Standard Pleading No. 14. Plaintiff adopts by reference each and every allegation in this Master Complaint.

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2. Pursuant to the Court's Case Management Order of June 24, 2016, Plaintiff, ELAINE WALCZYK Personal Representative for the Estate of RICHARD WALCZYK, Deceased states as follows:

# PREMISES LIABILITY COUNT AS TO DEFENDANTS, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP

- A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Deceased Plaintiff," Standard Pleading No. 14.
- B. That during the period 1967-2003, Decedent was exposed to toxic levels of environmental pollutants including asbestos fibers due to his employment working on a project over which Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, had supervision and control at a building owned by Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, located in the county of Wayne.
- C. That in the course of Decedent's employment with the employer at the aforementioned location, Decedent was required to work in an area of the building in which he was exposed to asbestos containing materials.
- D. That in the course of Decedent's employment with the employer at the aforementioned location, Decedent was required to work in an area where asbestos containing material was used and upon his return from work, brought home with him, within the family motor vehicle(s) and upon his person, on his shoes, clothing, handkerchiefs, and upon his other personal articles, and items brought into the home from the jobsite, particles

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of asbestos and asbestos dust and fibers to which he was exposed at his place of employment.

E. That the work was being undertaken by the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, through their employees and the agency of various contractors and subcontractors, including Decedent's employer, and that the work in which Decedent was engaged in at the time of this occurrence was inherently dangerous work.

F. That it was then and there the duty of the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, to provide a safe place for invitees such as the Decedent and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.

- G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Decedent to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.
- H. That the Defendants, BASF CORPORATION, FORD MOTOR COMPANY and MARATHON PETROLEUM COMPANY LP, breached their duties and were negligent in the following manner:
  - (a) failed to provide adequate and proper ventilation;
  - failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;

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(c) failed to provide a safe place for Decedent to work;

(d) failed to safely and properly operate and maintain the

construction site premises;

(e) failed to inspect the premises for dangerous and/or hazardous

conditions;

(f) employed a careless and/or negligent general contractor;

(g) maintained a right of control over the construction work and

were negligent in their supervision and job inspection;

(h) failed to warn Decedent of the dangerous and/or hazardous

condition that they knew or should have known existed.

That in the happening of the aforesaid incident, Decedent was not

guilty of negligence or of contributory negligence, but as a direct and proximate result of

Defendants' negligence, Decedent suffered harmful exposure to asbestos fibers causing

and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental

anguish, discomfort and inconvenience.

I.

WHEREFORE, Plaintiff demands judgment against the Defendants herein

for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be

entitled, together with interests, costs and attorneys fees.

3. Pursuant to the Court's Case Management Order of June 24, 2016,

Plaintiff, ELAINE WALCZYK Personal Representative for the Estate of RICHARD

WALCZYK, Deceased states as follows:

Deceased Plaintiff:

Richard Walczyk

Decedent's Date of Birth:

October 30, 1942

Decedent's Date of Death:

July 20, 2020

Personal Representative:

Elaine Walczyk

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280 N. OLD WOODWARD AVE.

SUITE 406

11

Per. Rep.'s Birth Date:

September 21, 1942

Personal Representative's Address:

32179 Knapp Ave. Warren, MI 48093

Spouse of Decedent:

Elaine Walczyk

Spouse's Date of Birth:

September 21, 1942

Disease:

Lung Cancer

Date of Decedent's Diagnosis:

March 23, 2020

Decedent's Period of Exposure to

Asbestos:

1942-1963 (exposure through father);

1963-2002 – subject to further

discovery

Decedent's Occupation:

Steamfitter/Pipefitter

Employer(s):

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included: No

(check one) Yes \_\_\_\_

No X (has been ordered)

Geographical Situs of Asbestos

Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) **Attorney for Plaintiff** 

280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009

(248) 647-6966

DATED: September 24, 2020

280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009 (248) 647-6966

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#### ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

#### **KNOWN JOB SITES**

#### YEARS AT JOB SITES

Cadillac Plant, Detroit, MI

1942-1963 (Exposure through father, Peter Walczyk)

City of Detroit, Detroit, MI

1963-1967

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Marathon Oil Refinery, Wyandotte Chemical, etc.,

Detroit, Metro Detroit, MI

1967-2003

Various Detroit Edison Plants

Detroit, Metro Detroit, MI

1967-2003

Various commercial jobsites,

Detroit, Metro Detroit, MI

1967-2003

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#### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

**BABCOCK & WILCOX COMPANY** 

**BONDEX** 

**BURNS & ROE** 

CELOTEX CORPORATION

**COMBUSTION ENGINEERING** 

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

**GAF CORPORATION** 

**GARLOCK** 

**GEORGIA PACIFIC** 

H.K. PORTER

**HALLIBURTON** 

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

**KVAERNER** 

**LESLIE** 

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

**OGLEBAY NORTON** 

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

**OWENS ILLINOIS** 

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**QUIGLEY** 

RAYBESTOS-MANHATTAN

**SEPCO** 

**THAN** 

**TURNER & NEWALL** 

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

**YARWAY** 

This list may be incomplete and is subject to change as discovery is ongoing. WALCZYK, Richard PremSFPF.docx

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#### ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Thomas K. Thomas 22480 Kelly Rd. #2 Eastpointe, MI 48021

PCP 40 yrs

Dr. Larry Tankenow 30117 Schoenherr Rd., Ste. 100

Warren, MI 48088

**Primary Lung Doctor** 

Dr. V. Gudaguntla 25195 Kelly Rd.

Roseville, MI 48066

Heart Doctor 2013 - Current

Dr. Kenneth Tucker 11885 12 mile Rd., #100B

Warren, MI 48093

Cancer Doctor - Feb 2020

Henry Ford Macomb 15855 19 Mile Rd, Clinton Twp, MI 48038

(586) 263-2300

Prostatectomy – 2009 Dr. Randy Chudler MIU

Ascension St. John Hospital 22101 Moross Rd.

Detroit, MI 48236 (313) 343-4000

Embolectomy - Oct 2015 Dr. Kumara Rama

Ascension St. John Hospital

Dr. Kumara Rama 22101 Moross Rd. Detroit, MI 48236 (313) 343-4000

Aortic Aneurysm w/stent graft - Jan 2016

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BIRMINGIIAM, MI 48009

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE WALCZYK, Personal Representative for the Estate of RICHARD WALCZYK Deceased,

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

vs.

ABB, INC, et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### JURY DEMAND

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE

ALL ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: September 24, 2020

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280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER and CYNTHIA ESPER

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON. PATRICIA FRESARD

VS.

#### ABB, INC.

a North Carolina Corporation, in its own right and as successor in interest to Asea Brown Boveri, Inc., BBC Brown Boveri, Inc. and Brown Boveri Electric, Inc.;

#### ADIENCE, INC.

Successor in Interest to Adience Company, LP as Successor in Interest to BMI, Inc., a Delaware Corporation;

#### THE ALLIANCE MACHINE COMPANY

a Delaware Corporation;

# AMERICAN CRANE CORPORATION

a Pennsylvania Corporation;

#### AMERON INTERNATIONAL CORPORATION

a Delaware Corporation;

## AMPHENOL CORPORATION

a Delaware Corporation;

#### ANDERSON GREENWOOD & COMPANY

a Texas Corporation;

#### ARMSTRONG INTERNATIONAL, INC.

a Michigan Corporation;

#### ARMSTRONG PUMPS, INC.

a New York Corporation;

#### **AUBURN MANUFACTURING COMPANY**

a Connecticut Corporation;

#### A.W. CHESTERTON COMPANY

a Massachusetts Corporation;

#### BALTIMORE ENNIS LAND COMPANY, INC.

an Ohio Corporation, a/k/a Belci, f/k/a Gibson-Homans;

#### BANNER ENGINEERING & SALES, INC.

a Michigan Corporation, a/k/a Joseph M. Day Company;

#### **BASF CORPORATION**

a Delaware Corporation;

#### BAYER CROPSCIENCE, INC.

a Delaware Corporation, f/k/a Amchem Products, Inc. and Benjamin Foster Company;

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#### THE BOOMER COMPANY

a Michigan Corporation;

#### **BRYAN STEAM CORPORATION**

a New Mexico Corporation;

#### BRYAN STEAM, LLC,

a Delaware Limited Liability Company, f/k/a Bryan Boilers;;

#### **BURNHAM LLC**

a Delaware Coproration, f/k/a Burnham Corporation;

#### BW/IP, INC.

a Delaware Corporation, f/k/a BW/IP International, Inc., in its own right and as parent corporation to Byron Jackson Pump Division;

# **CAMERON INTERNATIONAL CORPORATION**

a Delaware Corporation:

#### CARRIER CORPORATION

a Delaware Corporation, a/k/a Bryant Heating & Cooling Systems, Bryant Company, Payne Company, AFFILIATED GAS EQUIPMENT, INC., Carrier Transicold Division, Carrier Refigeration Operations, Owen-West Mechanical, Inc., CAC/BDP, Comfortaire, Day & Night Furnace Co., Heil-Quaker Corporation and Heil Furnaces;

#### CARVER PUMP CO.

a Delaware Corporation;

#### CHAMPLAIN CABLE CORPORATION

a Delaware Corporation, f/k/a Haveg Industries, Inc.;

#### CLEAVER BROOKS COMPANY

a Pennsylvania Corporation;

#### **CLOW CORPORATION**

a Delaware Corporation;

# COMPUDYNE CORPORATION

a Nevada Corporation, in its own right and as successor in interest by merger with York-Shipley, Inc., a Pennsylvania Corporation; and as successor in interest by merger with Robintech, Inc., a Delaware Corporation;

#### COOPER INDUSTRIES LLC

a Delaware Corporation, in its own right and as successor in interest to Cooper Industries, Inc., Crouse-Hinds Co., Cooper Bessemer Corp., McGraw-Edison Co., Wagner Electric Corp, Studebaker Worthington, Inc., Edison International Inc., Tung Sol Electric, Inc. and Abex Corporation;

#### CRANE CO.

a Delaware Corporation f/k/a Crane Delaware Co., a Delaware Corporation, in its own right and as Successor in Interest to Crane Co., an Illinois Corporation, f/k/a Crane Company and Jenkins Valves, in its own right and as Successor in Interest to Pacific Steel Boiler Company;

#### **CROSBY VALVE, LLC**

a Nevada Corporation;

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SUITE 406
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#### DAUBERT CHEMICAL COMPANY, INC.

an Illinois Corporation;

#### DURAMETALLIC CORPORATION

a Michigan Corporation;

#### EDWARD VOGT VALVE CO.

a North Carolina Corporation;

#### **ELOF HANSSON USA INC.**

a Delaware Corporation;

#### **EVERLASTING VALVE CO.**

a Michigan Corporation;

#### F.B. WRIGHT COMPANY

a Michigan Corporation;

#### F.L. SMIDTH DORR-OLIVER EIMCO INC.

a Delaware Corporation;

#### FLOWSERVE CORPORATION

a New York Corporation, in its own right and as successor in interest to Durco Pumps and Nordstrom Valves;

#### FLOWSERVE US INC.

a Delaware Corporation, in its own right and as successor in interest to Edwards Valves, Inc.;

#### **FMC CORPORATION**

a Delaware Corporation, in its own right and on behalf of its former Chicago Pump, Northern Pump and Stearns businesses and its former Construction Equipment Group;

#### FORD MOTOR COMPANY

a Delaware Corporation;

#### FOSECO, INC.

a Delaware Corporation, in its own right and as Successor to Gibson-Homans Co., Baltimore Ennis Land Co., Inc., and as Subsidiary of Foseco Plc;

#### FOSTER WHEELER ENERGY CORPORATION

a New Jersey Corporation;

#### GENERAL ELECTRIC COMPANY

a New York Corporation;

## GOODALL RUBBER COMPANY

a New Jersey Corporation;

#### **GOODRICH CORPORATION**

f/k/a B.F. Goodrich Company a New York Corporation;

#### GOODYEAR TIRE & RUBBER COMPANY

an Ohio Corporation;

#### GOULDS PUMPS, INCORPORATED

a Delaware Corporation;

#### **GREENE, TWEED & COMPANY**

a Pennsylvania Corporation;

#### **GRINNELL LLC**

a Delaware Corporation;

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI 48009

#### HARRISON PIPING SUPPLY COMPANY

a Michigan Corporation;

# HONEYWELL INTERNATIONAL, INC.

a Delaware Corporation, Successor in interest to Allied-Signal Corporation, Allied Chemical Corporation, Semet Solvay and Bendix Corporation;

#### HOWARD ELECTRIC COMPANY

a Michigan Corporation;

#### IMO INDUSTRIES, INC.

a/k/a DeLaval Turbines, Inc., a Delaware Corporation;

#### ITT INDUSTRIES, INC.

an Indiana Corporation in its own right and as Successor in Interest to ITT Grinnell, Bell & Gossett, Kennedy Valves, Hoffman Specialty, Marlow Pumps;

#### IU NORTH AMERICA, INC.

a Delaware Corporation as Successor in Interest by merger with The Garp Co. and formerly known as The Gage Co., a Pennsylvania Corporation, f/k/a Taylor Engineering;

#### JOHN E. GREEN COMPANY

a Michigan Corporation;

#### JOHNSON CONTROLS, INC.

a Wisconsin Corporation, in its own right and as successor in interest to Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### K & C SUPPLY, INC.

an Ohio Corporation;

#### KERR PUMP AND SUPPLY, INC.

a Michigan Corporation;

#### LIMBACH COMPANY LLC

a Delaware Corporation, in its own right and as successor in interest to Limbach Company, a/k/a Lorne Plumbing & Heating;

#### MARATHON PETROLEUM COMPANY LP

an Ohio Corporation a/k/a Marathon Ashland Petroleum LLC, Marathon Oil Corporation, Marathon Ashland Petroleum Canada, Ltd., Marathon Petroleum Company Canada, Marathon Ashland Pipe Line LLC and Marathon Pipe Line LLC;

# THE MARLEY-WYLAIN COMPANY

a Delaware Corporation, in its own right and as Successor in Interest to Weil-McLain; Williamson-Thermoflo; Williamson Company; Metzger Machine Corporation; Weil-McLain; Bennett & Peck Company; Peck and Williamson Heating and Ventilating Company; International Heater Company, Twentieth Century Heating and Ventilating Company; Henry & Scheible Company; Quaker Manufacturing Company; Ideal Furnace Company; Williamson Heater Company;

# MCMASTER-CARR SUPPLY COMPANY

an Illinois Corporation;

### MCWANE, INC.

a Delaware Corporation, in its own right and as successor in interest to Clow Valve Co. and Yeomans Pump;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### METROPOLITAN LIFE INSURANCE COMPANY

a/k/a Metropolitan Insurance Co. a Delaware Corporation;

#### MICHIGAN VALVE AND FOUNDRY CORPORATION

a Michigan Corporation;

#### MIDLAND ROSS CORPORATION

an Ohio Corporation, in its own right and as Successor in Interest to Surface Combustion:

#### MIDWEST VALVE & FITTING COMPANY

a Michigan Corporation, a/k/a State Plumbing & Heating Supply Co.;

#### NAGLE PUMPS, INC.

an Ohio Corporation;

# PARKER-HANNIFIN CORPORATION

an Ohio Corporation, as parent corporation of Parker Packing Division;

#### PFIZER, INC.

a Delaware Corporation;

#### POWER PROCESS PIPING, INC.

a Michigan Corporation;

#### R. L. DEPPMANN COMPANY

a Michigan Corporation;

#### RADIATOR SPECIALTY COMPANY

a North Carolina Corporation;

RIC-WIL, INC.

an Ohio Corporation;

#### RILEY POWER, INC.

a Massachusetts Corporation f/k/a Riley Stoker Corporation;

#### ROGER ZATKOFF COMPANY

a Michigan Corporation;

#### ROPER PUMP COMPANY

a Delaware Corporation;

### **ROTH PUMP COMPANY**

a Delaware Corporation;

#### RUST INTERNATIONAL, INC.

a Delaware Corporation in its own right and as successor in interest to M.W. Kellogg Co., and the Swindell Dressler Co.;

#### RUTHMAN PUMP & ENGINEERING, INC.

an Ohio Corporation, a/k/a Gusher Pumps, Inc.;

#### SCHAD BOILER SETTING COMPANY

d/b/a Schad Refractory Construction Co., a Michigan Corporation;

#### SEAWAY MECHANICAL CONTRACTORS, INCORPORATED

a Michigan Corporation;

#### SHAW-WINKLER, INC.

a Michigan Corporation;

#### SHERWIN-WILLIAMS COMPANY

an Ohio Corporation, a/k/a Mercury Paints;

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BIRMINGHAM, MI 48009

#### SOCONY MOBIL COMPANY, INC.

a Delaware Corporation, a/k/a Mobil Oil Corporation;

#### **SQUARE D COMPANY**

a Delaware Corporation;

#### STANDARD FUEL ENGINEERING COMPANY

a Michigan Corporation;

#### THE STANLEY-CARTER COMPANY

a Michigan Corporation;

# STERLING FLUID SYSTEMS (USA), LLC

f/k/a Peerless Pump Company, a Delaware Corporation;

#### SULZER PUMPS (US) INC.

a Delaware Corporation;

#### SUNOCO, INC (R&M)

a Pennsylvania Corporation;

# TACO, INC.

a Rhode Island Corporation;

#### THIEM CORPORATION

a/k/a Universal Refractories, Inc., a Delaware Corporation;

#### TRANS-PUMPS, INC.

a Pennsylvania Corporation, a/k/a Hazelton Pumps;

# UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC.

Successor in Interest to Union Carbide, a New York Corporation;

#### UNION PUMPS COMPANY

f/k/a David Brown Union Pump Company, a Michigan Corporation;

#### UNIROYAL, INC.

a/k/a United States Rubber Co., Inc., a New Jersey Corporation;

#### VIACOM INTERNATIONAL, INC.

a Delaware Corporation, in its own right and as Successor in Interest to CBS Corporation, in its own right and as Successor

in Interest to Westinghouse Electric Corporation, a

Pennsylvania Corporation, f/k/a Westinghouse Electric & Manufacturing Company, in its own right and as Successor in

Interest to Luxaire, Inc.;

#### VIKING PUMP, INC.

a Delaware Corporation;

#### W. J. O'NEIL CO.

a Michigan Corporation, f/k/a Comb & Groves, Inc.;

#### W. M. SPRINKMAN, LLC

a Wisconsin Corporation;

# WARREN PUMPS, LLC

a Delaware Corporation;

# WAYNE/SCOTT FETZER COMPANY

a Delaware Corporation, f/k/a Wayne Combustion System;

#### WEIR VALVES & CONTROLS USA, INC.

a Massachusetts Corporation, f/k/a Atwood and Morrill Co., Inc.;

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

#### WELTON RUBBER COMPANY

a Michigan Corporation, formerly known as Welton Rubber & Asbestos Company;

#### THE WILLIAM POWELL COMPANY

an Ohio Corporation;

# YORK RUBBER COMPANY

a Michigan Corporation;

#### YORK INTERNATIONAL CORPORATION

a Delaware Corporation, in its own right and as successor in interest to Evcon Industries, Inc., Luxaire, Inc., Moncrief Furnace, The Henry Furnace Company, Fraser-Johnston, Coleman Furnace;

#### Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

# NOTICE OF COMPLAINT COMPLAINT (WITH PREMISES LIABILITY COUNT)

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

NOW COME Plaintiffs, by and through their Attorney, SERLING & ABRAMSON, P.C., and for their Complaint against each Defendant, state as follows:

- 1. In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order of June 24, 2016, paragraph II. C. 4., a Complaint was filed with the Court's "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13. Plaintiffs adopt by reference each and every allegation in this Master Complaint.
- Pursuant to the Court's Case Management Order of June 24, 2016,
   Plaintiffs, DONALD ESPER and CYNTHIA ESPER, his wife, state as follows:

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# PREMISES LIABILITY COUNT AS TO DEFENDANTS BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M)

- A. Plaintiff repeats and incorporates by reference the "Master File" (Case No.: 03-310422-NP) entitled "Asbestos Master Complaint--Living Plaintiff and Spouse," Standard Pleading No. 13.
- B. That during the period 1969-2009, Plaintiff was exposed to toxic levels of environmental pollutants including asbestos fibers while in the course of his employment with various employers working on a project over which Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), had supervision and control at a building owned by Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), located in the county of, including but not limited, to Wayne.
- C. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area of the building in which he was exposed to asbestos containing materials.
- D. That in the course of Plaintiff's employment with various employers at the aforementioned location, Plaintiff was required to work in an area where asbestos containing material was used.
- E. That the work was being undertaken by the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M),

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SUITE 406
BIRMINGHAM, MI 48009

through their employees and the agency of various contractors and subcontractors, including Plaintiff's employer(s), and that the work in which the Plaintiff was engaged in at the time of this occurrence was inherently dangerous work.

F. That it was then and there the duty of the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), to provide a safe place for invitees such as the Plaintiff and others similarly situated, to work, and to exercise due care in the operation and maintenance of said premises so as to prevent injury to its invitees, and to inspect the premises to ensure that they were safe and free from any and all dangerous conditions.

G. That disregarding said duties, the Defendants created and maintained an unsafe, dangerous and/or hazardous condition by failing to provide adequate and proper ventilation and by failing to warn of the dangerous condition, thereby causing Plaintiff to suffer harmful exposure to asbestos fibers causing severe and disabling personal injuries.

H. That the Defendants, BASF CORPORATION, FORD MOTOR COMPANY, MARATHON PETROLEUM COMPANY LP, SOCONY MOBIL COMPANY, INC. and SUNOCO, INC (R&M), breached their duties and were negligent in the following manner:

- (a) failed to provide adequate and proper ventilation;
- (b) failed to provide inhalators or other devices for the use of their invitees in filtering out harmful environmental toxins such as asbestos;
- (c) failed to provide a safe place for Plaintiff to work;

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BIRMINGHAM, MI 48009

- (d) failed to safely and properly operate and maintain the construction site premises;
- (e) failed to inspect the premises for dangerous and/or hazardous conditions;
- (f) employed a careless and/or negligent general contractor;
- (g) maintained a right of control over the construction work and were negligent in their supervision and job inspection;
- (h) failed to warn Plaintiff of the dangerous and/or hazardous condition that they knew or should have known existed.
- I. That in the happening of the aforesaid incident, Plaintiff was not guilty of negligence or of contributory negligence, but as a direct and proximate result of Defendants' negligence, Plaintiff suffered harmful exposure to asbestos fibers causing and/or contributing to a fatal respiratory disease and further, he suffers great pain, mental anguish, discomfort and inconvenience.

WHEREFORE, Plaintiff demands judgment against the Defendants herein for whatever amount above Twenty-Five Thousand (\$25,000) dollars he is found to be entitled, together with interests, costs and attorneys fees.

3. In addition to Paragraphs 1 and 2 herein, and Pursuant to the Court's Case Management Order of June 24, 2016, Plaintiffs, DONALD ESPER and CYNTHIA ESPER, his wife, state as follows:

Living Plaintiff:

Donald Esper

Plaintiff's Date of Birth:

December 22, 1938

Plaintiffs' Residence:

5844 N. Evangeline St.

Dearborn Heights, MI 48127

Spouse:

Cynthia Esper

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Spouse's Date of Birth:

August 31, 1954

Disease:

Asbestosis

Date of Diagnosis:

December 5, 2019

Period of Exposure to Asbestos:

1969-2009 - subject to further

discovery

Occupation:

Insulator

Employer:

Various contractors

Known Job Sites and Years at Job

Sites:

See Attachment "A"

Identity of all Known Non-Parties:

See Attachment "B"

Reasonably Known Medical

Information:

See Attachment "C"

Social Security Printout included:

(check one) Yes

No No X (has been ordered)

Geographical Situs of Asbestos

Exposure:

Wayne County, Michigan

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) **Attorney for Plaintiff** 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: December 15, 2020

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

# ATTACHMENT "A"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff reserves the right to update asbestos product exposure identification after investigation of the case and review of the Social Security Printout and in accordance with the Court's Case Management Order deadline for submission of a final product identification brochure. Plaintiff's Known Job Site Information is as follows:

# KNOWN JOB SITES YEARS AT JOB SITES

Various industrial jobsites, including but not limited to Ford Motor, General Motors, Chrysler, Great Lakes Steel, McLouth Steel, Marathon Oil Refinery, Mobil Oil Refinery, Sun Oil Refinery, etc., Detroit, Metro Detroit, MI

1969-2009

Various Detroit Edison Plants Detroit, Metro Detroit, MI

1969-2009

Various commercial jobsites, Detroit, Metro Detroit, MI

1969-2009

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SUITE 406

BIRMINGHAM, MI 48009

#### ATTACHMENT "B"

In compliance with Wayne County Circuit Court Judge Robert J. Colombo, Jr.'s Case Management Order No. 22 of June 24, 2016, paragraph II. C. 4. d, Plaintiff's Preliminary Notice of Non-Parties are as follows:

A.P. GREEN REFRACTORIES

AC&S

ARMSTRONG WORLD INDUSTRIES

**ASARCO** 

BABCOCK & WILCOX COMPANY

**BONDEX** 

**BURNS & ROE** 

**CELOTEX CORPORATION** 

COMBUSTION ENGINEERING

DRESSER INDUSTRIES/HARBISON WALKER REFRACTORIES

EAGLE-PICHER INDUSTRIES, INC.

FIBREBOARD CORPORATION

FLEXITALLIC GASKET

**FLINTKOTE** 

GAF CORPORATION

GARLOCK

GEORGIA PACIFIC

H.K. PORTER

HALLIBURTON

JOHNS-MANVILLE CORPORATION

KAISER ALUMINUM

KEENE/BEH

KENTILE FLOORS

KVAERNER

LESLIE

ASBESTOS CLAIMS MANAGEMENT CORP. (F/K/A NATIONAL GYPSUM)

NORTH AMERICAN REFRACTORIES

OGLEBAY NORTON

ON MARINE SERVICES COMPANY

OWENS CORNING FIBERGLAS CORPORATION

OWENS ILLINOIS

PITTSBURGH CORNING CORPORATION

PLIBRICO COMPANY

**OUIGLEY** 

**RAYBESTOS-MANHATTAN** 

**SEPCO** 

**THAN** 

TURNER & NEWALL

UGL

UNITED STATES GYPSUM CO.

W.R. GRACE

YARWAY

This list may be incomplete and is subject to change as discovery is ongoing.

LAW OFFICES SERLING & ABRAMSON, P.C. 280 N. OLD WOODWARD AVE. SUITE 406 BIRMINGHAM, MI 48009

# ATTACHMENT "C"

All reasonably known medical information is as follows:

Dr. Matteo Valenti 20317 Farmington Rd. Livonia, MI 48152 (248) 615-0777

Dr. Mark Rasak 28080 Grand River Ave. Farmington Hills, MI 48336 (248) 615-7300 Primary Care 3+ yrs

Current Heart Doctor 10 Yrs.

LAW OFFICES
SERLING & ABRAMSON, P.C.
280 N. OLD WOODWARD AVE.
SUITE 406
BIRMINGHAM, MI. 48009

# IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER and CYNTHIA ESPER

ASBESTOS DOCKET

Case No:

-NP(a)

Plaintiff,

HON, PATRICIA FRESARD

vs.

ADIENCE, INC., et al

Defendants.

ERIC B. ABRAMSON (P60949) SERLING & ABRAMSON, P.C. Attorney for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

#### **JURY DEMAND**

A TRIAL BY JURY IS HEREBY DEMANDED TO DETERMINE ALL

ISSUES.

/s/ Eric B. Abramson

ERIC B. ABRAMSON (P60949) Attorney for Plaintiff 280 N. Old Woodward, Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

DATED: December 15, 2020

LAW OFFICES
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SUITE 406
BIRMINGHAMI 48009

# **EXHIBIT C**

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

<b>NICHOL</b>	AS KACHMAN	and
<b>ISABEL</b>	KACHMAN,	

ASBESTOS DOCKET Case No. 20-005638-NP

Plaintiffs,

HON. PATRICIA FRESARD

ν

ACME Insulation, a Michigan Corporation, et al.

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ERIC B. ABRAMSON (P60949) MARGARET H. JENSEN (P33511) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
(313) 965-7900

# ORDER DENYING PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on: _			<u>.</u> .
PRESENT:	Hon.		
		CIRCUIT COURT JUDGE	

Plaintiffs having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises,

Kitch Drutchas Wagner Valitutti & Sherbrook

Sherbrook
ATTORNEYS AND COUNSELORS
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5465

IT IS HEREBY ORDERED that plaintiffs' motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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CIRCUIT COURT JUDGE

Kitch Drutchas
Wagner Valitutti &
Sherbrook

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONALD ESPER and
CYNTHIA ESPER,

ASBESTOS DOCKET Case No. 20-016314-NP

Plaintiffs,

HON. PATRICIA FRESARD

V

ACME Insulation, a Michigan Corporation, et al.

Defendan	ıts.	
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ERIC B. ABRAMSON (P60949) MARGARET H. JENSEN (P33511) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
(313) 965-7900

# ORDER DENYING PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		·
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiffs having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises,

Kitch Drutchas
Wagner Valitutti &
Sherbrook
ATTORNEYS AND COUNSELORS

SUITE 2400
DETROIT, MICHIGAN

48226-5485

IT IS HEREBY ORDERED that plaintiffs' motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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			_			~	

CIRCUIT COURT JUDGE

Kitch Drutchas
Wagner Valitutti &
Sherbrook
ATTORNEYS AND COUNSELORS

(313) 965,7900

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CAROL BEATTY, Personal Representative for the Estate of EARL T. BEATTY, Deceased, ASBESTOS DOCKET Case No. 20-006060-NP

HON. PATRICIA FRESARD

Plaintiff.

v

ACME Insulation, a Michigan Corporation, et al.

Defendants.

ERIC B. ABRAMSON (P60949)
MARGARET H. JENSEN (P33511)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
/ (313) 965-7900

# ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiff having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises.

Kitch Drutchas Wagner Valitutti & Sherbrook

ATTORNEYS AND COUNSELORS
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5485

IT IS HEREBY ORDERED that plaintiff's motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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CIRCUIT COURT JUDGE

Kitch Drutchas
Wagner Valitutti &
Sherbrook

48226-5485

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT L. McCAUL, Personal Representative for the Estate of ROBERT L. McCAUL, Deceased, ASBESTOS DOCKET Case No. 20-008150-NP

HON. PATRICIA FRESARD

Plaintiff.

v

ACME Insulation, a Michigan Corporation, et al.

Defendants.

ERIC B. ABRAMSON (P60949)
MARGARET H. JENSEN (P33511)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
/ (313) 965-7900

# ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		_•
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiff having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises.

Kitch Drutchas Wagner Valitutti & Sherbrook

ATTORNEYS AND COUNSELORS
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5485

IT IS HEREBY ORDERED that plaintiff's motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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CIRCUIT COURT JUDGE

Kitch Drutchas
Wagner Valitutti &
Sherbrook

SUITE 2400 DETROIT, MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LANA BARBER, Personal Representative for the Estate of LARRY L. BARBER, Deceased, ASBESTOS DOCKET Case No. 20-006826-NP

HON. PATRICIA FRESARD

Plaintiff.

v

ACME Insulation, a Michigan Corporation, et al.

Defendants.

ERIC B. ABRAMSON (P60949)
MARGARET H. JENSEN (P33511)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
V ALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
/ (313) 965-7900

# ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		·
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiffs having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises.

Kitch Drutchas Wagner Valitutti & Sherbrook

ATTORNEYS AND COUNSELORS
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5485

IT IS HEREBY ORDERED that plaintiffs' motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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CIRCUIT COURT JUDGE

Kitch Drutchas Wagner Valitutti & Sherbrook

ATTORNEYS AND COUNSELORS
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SUITE 2400
DETROST, MICHIGAN

/313) 965-7900

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE WALCZYK, Personal Representative for the Estate of RICHARD WALCZYK, Deceased, ASBESTOS DOCKET Case No. 20-012537-NP

HON. PATRICIA FRESARD

Plaintiff.

v

ACME Insulation, a Michigan Corporation, et al.

Defendants.

ERIC B. ABRAMSON (P60949)
MARGARET H. JENSEN (P33511)
SERLING & ABRAMSON, P.C.
Attorneys for Plaintiffs
280 N. Old Woodward Ave., Ste. 406
Birmingham, Michigan 48009
(248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
One Woodward Ave., Ste. 2400
Detroit, MI 48226
/ (313) 965-7900

# ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		•
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiff having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises.

Kitch Drutchas Wagner Valitutti & Sherbrook

ATTORNEYS AND COUNSELORS ONE WOODWARD AVENUE, SUITE 2400 DETROIT, MICHIGAN 48226-5485

IT IS HEREBY ORDERED that plaintiff's motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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CIRCUIT COURT JUDGE

Kitch Drutchas
Wagner Valitutti &
Sherbrook

SUITE 2400 DETROIT, MICHIGAN

#### IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

<b>CARL</b>	W.	HE	INN	and
<b>CHAR</b>	LEN	١E	HEN	INI,

ASBESTOS DOCKET Case No. 20-007746-NP

Plaintiffs,

HON. PATRICIA FRESARD

ν

ACME Insulation, a Michigan Corporation, et al.

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ERIC B. ABRAMSON (P60949) MARGARET H. JENSEN (P33511) SERLING & ABRAMSON, P.C. Attorneys for Plaintiffs 280 N. Old Woodward Ave., Ste. 406 Birmingham, Michigan 48009 (248) 647-6966

PATRICK M. FISHMAN (P41656)
KATHARINE GOSTEK (P80973)
KITCH, DRUTCHAS, WAGNER,
VALITUTTI & SHERBROOK
Attorneys for Defendants
Standard Fuel Engineering Company
and Spence Brothers
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Detroit, MI 48226
(313) 965-7900

# ORDER DENYING PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

At a session of said Court, held in the County of Wayne, State of Michigan

on:		<i>:</i>
PRESENT: Hon.		
	CIRCUIT COURT JUDGE	

Plaintiffs having filed a motion for injunctive relief against defendants Standard
Fuel Engineering Company and Spence Brothers, defendants Standard Fuel
Engineering Company and Spence Brothers having filed a response, the matter having
been heard by the Court, and the Court being otherwise fully advised in the premises,

Kitch Drutchas Wagner Valitutti & Sherbrook

Sherbrook
ATTORNEYS AND COUNSELOR
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5465

IT IS HEREBY ORDERED that plaintiffs' motion for injunctive relief is denied for the reasons stated on the record.

IT IS FURTHER ORDERED that the language of the complaint shall be amended to include the following language, to be inserted in the complaint and/or any attachments to the complaint following any statement regarding years of exposure:

[Years] "These are general years of exposure only. For Medicare reporting purposes, the specific years of exposure as to any particular defendant will be the dates set forth in plaintiff's Discovery Brochure and other evidence which may be advanced during the course of discovery."

IT IS FURTHER ORDERED that discovery has not revealed any asbestos exposure on or after December 5, 1980.

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Ш	15	SO	()h	(I )H	Кŀ	-1)

CIRCUIT COURT JUDGE

Kitch Drutchas Wagner Valitutti & Sherbrook

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